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TO THE

REPORTS OF COMMITTEES

OF THE

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FOR THE

FIRST SESSION OF THE FORTY-SEVENTH CONGRESS

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47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 994.

BRIDGE OVER THE MISSISSIPPI RIVER NEAR MOUTH OF UPPER IOWA RIVER.

APRIL 10, 1882.—Referred to the House Calendar and ordered to be printed.

Mr. PAGE, from the Committee on Commerce, submitted the following

REPORT:

[To accompany bill H. R. 3825.]

The Committee on Commerce, to whom was referred the bill (H. R. 3825) to authorize the construction and maintenance of a ponton railway bridge across the Mississippi River at or near the mouth of the Upper Iowa River, in the State of Iowa, submit the following report:

This bill was submitted to the Secretary of War, with a request that he should make any suggestions with reference to the propriety of its passage; and the following correspondence is herewith submitted.

The committee would recommend the passage of the bill with the provisos suggested by the Secretary of War, which are herewith attached to the bill.

WAR DEPARTMENT,
Washington City, March 7, 1882.

SIR: I have the honor to acknowledge the receipt of your letter of the 11th ultimo, referring bill H. R. 3825, "to authorize the construction and maintenance of a ponton railway bridge across the Mississippi River at or near the mouth of the Upper Iowa River, in the State of Iowa," and, in compliance with your request for information and suggestions regarding the same, to inclose a communication from the Chief of Engineers and the accompanying report of Capt. A. Mackenzie, Corps of Engineers, on the subject, in whose views therein expressed I concur.

Very respectfully, your obedient servant,

ROBERT T. LINCOLN,
Secretary of War.

Hon. W. D. WASHBURN,
Of Committee on Commerce, House of Representatives.

OFFICE OF THE CHIEF OF ENGINEERS,
UNITED STATES ARMY,
Washington, D. C., March 3, 1882.

SIR: I beg leave to return bill H. R. 3825, "to authorize the construction and maintenance of a ponton railway bridge across the Mississippi River at or near the mouth of the Upper Iowa River, in the State of Iowa," referred to the War Department by the Hon. W. D. Washburn, of the Committee on Commerce, House of Representatives, and thence to this office, and to invite attention to the inclosed copy of the report thereon by Capt. A. Mackenzie, Corps of Engineers, to whom it was referred.

I concur in his views and recommendations, which should, in my judgment, be carried out.

Very respectfully, your obedient servant,

H. G. WRIGHT,
Chief of Engineers, Brig. and Bvt. Maj. Gen.

Hon. ROBERT T. LINCOLN,
Secretary of War.

UNITED STATES ENGINEER OFFICE,
Rock Island, Ill., February 23, 1882.

GENERAL: As directed by your indorsement, dated February 16, 1882, referring to me for report bill H. R. 3825, Forty-seventh Congress, first session, I would submit the following:

No special examination of the Mississippi River near the mouth of the Upper Iowa can now be made, but I have no doubt a suitable location for the proposed bridge can be found in the locality described in the bill.

The chapter 224 of Supplement to the Revised Statutes of the United States referred to in the bill is chapter 224, Laws of Forty-third Congress, being "An act to legalize and establish a ponton railway bridge across the Mississippi River at Prairie du Chien, and to authorize the construction of a similar bridge at or near Clinton, Iowa."

This act, being one to legalize an existing structure, does not require plans and locations to be approved by the honorable Secretary of War previous to construction.

I would therefore suggest that the following proviso, which forms a part of the acts of March 3, 1875, and July 6, 1876, authorizing ponton bridges at Dubuque, Iowa, and La Crosse, Wis., be added to the bill under consideration:

"*Provided,* That said bridge shall not be built or commenced until the plan and specifications for its construction have been submitted to the Secretary of War for his approval, nor until he shall approve the plan and location of said bridge; and if any change be made in the plan of construction of said bridge at any time, such change shall be subject to the approval of the Secretary of War, and any change in the construction, or any alteration of said bridge that may be directed at any time by Congress or the Secretary of War, shall be made at the cost and expense of the owners thereof.

"*And provided further,* That the right is hereby reserved to Congress to alter, amend, or repeal this act; and in case of the repeal of this act, the bridge shall be removed without expense to the United States; and if this act be amended, any change or alteration required shall be without cost to the United States."

Should the above proviso be incorporated in the bill, it would appear to me proper to omit the proviso in lines 13 and 14, "That in such bridge no more than one draw shall be required"; as, while not probable, it is possible, such a proviso might conflict with the proviso relative to the approval of plans by the Secretary of War.

The papers referred to me are returned herewith.

I am, very respectfully, your obedient servant,

A. MACKENZIE,
Captain of Engineers.

The CHIEF OF ENGINEERS, U. S. A.

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 995.

JAMES K. STURTEVANT.

APRIL 10, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. T. M. RICE, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1373.]

The Committee on Pensions, to whom was referred the bill (H. R. 1373) granting a pension to James K. Sturtevant, having had the same under consideration, submit the following report:

This claim has been under investigation in the Pension Department, and on the 6th of March, 1880, was rejected, on the ground that "claimant was not in the United States service so as to entitle him to a pension under the pension laws."

An examination of the evidence presented to the committee establishes the following state of facts:

1st. It is shown by letter of Second Auditor, dated Washington, D. C., 1879, that James K. Sturtevant enrolled October 18, 1855, in Capt. O. Humason's Company B, First Regiment Oregon Mounted Volunteers, and was discharged May 19, 1856, as per General Order No. 32 of that date, and that he performed further service in Capt. A. V. Williams's Company, Oregon Mounted Volunteers, from January 18 to August 11, 1856, as shown by the records of the War Department.

2d. James M. Kelley, one of the supreme judges of Oregon, under oath, states that in 1855 he was commissioned lieutenant-colonel of the First Regiment of Oregon Mounted Volunteers, and as such officer was in command of five companies of that regiment, including Company B, Capt. Orlando Humason; that James K. Sturtevant was a private in said Company B; and that, on the 7th day of December, 1855, an engagement took place with hostile Indians along the Walla Walla Valley, in Washington Territory, in which said Sturtevant was dangerously wounded—so dangerous that the surgeon of the regiment reported he could not recover; that he was sent to hospital and finally recovered; that the said Sturtevant was wounded in said engagement, in the line of his duty, by a gunshot in his breast, and that the captain and first lieutenant of said Company B are both dead.

3d. James McAuliff, on oath, states that he was second lieutenant of Company B, in said regiment, and further fully corroborates the statement of Lieut. Col. James M. Kelley.

4th. Stoey Hemenway, M. D., upon oath, states that he had, under an appointment from the Pension Department, personally examined James K. Sturtevant, an applicant for pension, and certified that he had been

wounded by a gunshot in right breast, passing through body, which incapacitates him for performance of heavy manual labor.

5th. It further appears from the records of the War Department that the First Regiment of Oregon Mounted Volunteers were called into service by order of the governor of Oregon to quell Indian disturbances, and that they were afterward paid by the United States under act of March 2, 1861, granting them the same pay and allowances as regular troops.

The foregoing are the facts, and may be regarded as showing clearly a meritorious case.

It seems the Pension Department, in construing the act of March 2, 1861, have held that the term in said act "and allowances" does not include pensions, and for that reason alone have rejected this claim. Without inquiry, or any expression of opinion as to the correctness of that decision, we have no hesitation in saying the records and the proofs submitted to us show that this is a just and meritorious claim, and that the claimant, Mr. Sturtevant, is entitled to a pension.

We therefore respectfully return the bill, with a favorable report, and do recommend its passage.

C

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 996.

MRS. ZEMIA SHEPHERD.

APRIL 10, 1882.—Laid on the table and ordered to be printed.

Mr. T. M. RICE, from the Committee on Pensions submitted the following

REPORT:

[To accompany bill H. R. 4807.]

The Committee on Pensions, to whom was referred the bill (H. R. 4807) for the relief of Zemia Shepherd, have had the same under consideration, and do make the following report:

The claimant, Zemia Shepherd, is the wife of Nathan Shepherd, and resides at Fairfield, State of Iowa. She was the daughter of William Stewart, who for many years was a frontiersman and Indian spy. Evidence of the most reliable character is presented, showing that William Stewart was in the early settlement of the West and Northwestern Territories, a brave, noble, and self-sacrificing man; and while he devoted many years to the service of his country, and the protection of our advancing civilization upon the frontier, we have no evidence that he ever held any official position, or that he was ever accredited as a government agent, or made any claim for, or ever received, any government compensation. He inthe mean time accumulated a small competence, and in old age settled down at home. By means of an unfortunate investment he lost all of his property. Old, infirm, and penniless, he found a home with his daughter, Mrs. Shepherd, where he was cared for until he died. Mrs. Shepherd is poor, is now also aged, infirm, and in great need; and she now asks for relief on account of the very long, very faithful, and very beneficial services of her father, performed as aforesaid without reward or compensation.

The foregoing seem to be the undoubted facts of this case.

But, it is submitted, Mrs. Shepherd is a married woman. She has a living husband, the head of her family. She was never at any time dependent upon her father for support or maintenance; on the other hand she and her husband provided for her dependent father. Second, it is not claimed that the father was ever an accredited officer, agent, or in any sense employé of the United States; he was at no time a scout or spy in the government service. Had he been, or had he at any time any claim for compensation, he would likely in his life time have made it manifest.

In conclusion, taking the most liberal views of the rules which should govern in making appropriations for meritorious and beneficient service of those who have all their lives been benefactors of the government and the people, there is no rule of law or equity that will justify the granting of the prayer in this bill. With a large degree of sympathy for Mrs. Shepherd, a sense of duty impels your committee to make an unfavorable report. All of which is respectfully submitted.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 997.

MARY A. STEECE.

APRIL 10, 1882.—Laid on the table and ordered to be printed.

Mr. T. M. RICE, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1520.]

The Committee on Pensions, to whom was referred the bill (H. R. 1520) to increase the pension of Mary A. Steece, widow of Tecumseh Steece, have considered the same, and make the following report:

Mary A. Steece is the widow surviving Tecumseh Steece. Tecumseh Steece was at the time of his death a lieutenant in the naval service of the United States, on board the United States war steamer San Jacinto, and died of disease, while employed in the line of his duty, on July 15, 1864.

Claimant is entered in the Pension Department as a pensioner, and has regularly drawn a pension from July 15, 1864, to date, at the rate of $25 per month, on pension certificate No. 538.

There are no special reasons offered why this case should receive Congressional relief, or why it should not be proceeded with in the Pension Department; and under the general law we therefore respectfully submit an unfavorable report.

C

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 998.

ANN LYON'S ADMINISTRATOR.

APRIL 10, 1882.—Laid on the table and ordered to be printed.

Mr. T. M. RICE, from the Committee on Pensions, submitted the following

REPORT:

The Committee on Pensions, to whom was referred the petition of Ann Lyon's administrator, having had the same under consideration, do report:

The claimant is administrator on the estate of Ann Lyon, deceased, who was a pensioner, as the surviving widow of Asher Lyon, deceased, late a soldier in the war of 1812. The case presented stands upon what purports to be a statement of facts, not signed or accredited to any one.

But admitting the correctness of this statement, still no relief should be granted. It is claimed that Mrs. Lyon made application for pension under the act of 1871, but for insufficiency of proof her claim was rejected. She afterwards made application and was allowed pension under the act of 1878, commencing with the date of filing her said last application. She has since died. And now her administrator makes claim for back pension from February 14, 1871, to March 9, 1878, at $8 per month.

It is submitted—

I. Under the pension laws, Mrs. Lyon, if living, would not be entitled to receive this back pension.

II. She having died, her administrator has no jurisdiction over the subject-matter of her unadjudicated pension claim.

III. An applicant for a pension dying before the claim for pension is allowed, the claim dies also. A mere claim for pension, unadjudicated, constitutes no right or thing in being which can be regarded as assets of claimant's estate or a subject-matter to be controlled by law of heirship or descent.

Therefore, admitting the facts to be true, as stated, your committee report unfavorably.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 999.

WILLIAM TRUE.

APRIL 10, 1882.—Laid on the table and ordered to be printed.

Mr. T. M. RICE, from the Committee on Pensions, submitted the following

REPORT:

The Committee on Pensions, to whom was referred the petition of William True and others, asking for the restoration of William True to the pension rolls as a soldier of the war of 1812, *have had the same under consideration, and submit the following report:*

The petitioner, William True, at one time was placed upon the pension rolls of the Pension Department, at $8 per month, but was afterwards dropped from said rolls for the reason that there was no evidence of service of fourteen days in said war.

Now Mr. True, to establish his service for fourteen days, offers as evidence his own affidavit only, in which he avers his comrades are all dead. This affidavit of Mr. True is supported by a certificate of some twelve persons, who have known him for many years, affirming his good character and truthfulness. This is all the evidence submitted, and it seems all that can be. This evidence is not sufficient. Your committee therefore make an unfavorable report.

All of which is respectfully submitted, and the committee ask to be discharged.

C

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1000.

THE ILLINOIS AND MISSISSIPPI CANAL.

APRIL 11, 1882.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. HENDERSON, from the Committee on Railways and Canals, submitted the following

REPORT:

[To accompany bill H. R. 2248.]

The Committee on Railways and Canals, to whom was referred the bill (H. R. 2248) to provide for the construction of the Illinois and Mississippi Canal, and to cheapen transportation, having fully considered the same, beg leave to submit the following report:

Your committee, without entering into any lengthy argument in favor of the passage of the said bill, believe that one of the great questions of the present day, and which deeply interests the people of every section of this great country, and especially such parts of it as are remote from the seaboard, is the transportation question, and that every improvement which gives the people cheaper transportation and increased facilities to enable them to reach the markets of our own country, and of the world, in the exchange of the productions of their industry, is demanded by the highest wisdom and the ablest statesmanship. One of the highest objects of all good government is to promote the public welfare, and there is no higher duty which our government owes to the people than to provide for them the cheapest and best facilities for reaching the markets with their surplus products. For this purpose the government annually expends millions of dollars in improving our rivers and harbors, has granted millions of acres of our public domain, and guaranteed large sums of money to aid in building railroads, and may, in the opinion of your committee, with just as much propriety construct or aid in the construction of a canal when such canal will promote the public welfare and benefit the commerce of the country to such an extent as to justify the expenditure required for that purpose.

The bill provides for the construction of a canal by the general government from the Illinois River, at or near Hennepin, to the Mississippi River, at or above the mouth of Rock River, in the State of Illinois, with a feeder, or branch canal, from Dixon, on Rock River, to the main canal, at or near Sheffield; and your committee, after a most careful consideration of the subject, are of the opinion that such canal should be constructed by the general government, and for the following reasons:

First. It is a work of national interest and importance, and not merely of local interest. By the construction of sixty-four miles of canal, which can be done at a cost of less than five millions of dollars, as estimated by the War Department, the Upper Mississippi and its tributaries will be connected with the lakes, and we will have a contin-

uous water route from Minneapolis, on the Upper Mississippi River, to the Atlantic seaboard.

Second. It will open a new avenue of transportation and trade, and will secure cheaper rates of transportation to the entire agricultural area tributary to the Upper Mississippi, and will connect that great channel of trade with the lakes and the seaboard by a direct water route, and which must be of great benefit to the East and West as well as the South.

Third. It will enable the farmers and producers of the Upper Mississippi Valley to reach the merchants, the manufacturers, and mechanics of New England and the Middle States, largely engaged in manufacturing, at much less cost with their products, while the manufacturers can also reach them with their manufactured fabrics at cheaper rates of transportation.

The very able committee of the Senate of the United States, of which Senator Windom was chairman, in 1874, in their report on transportation routes to the seaboard, say, in speaking of this proposed canal, that if constructed the saving in cost of transport of the surplus crops of Iowa and Minnesota alone, in a single year, would more than pay the entire cost of the construction of this canal. It has been well said of this canal, that, when taken in connection with the great benefits to be derived from its construction, it will be the cheapest canal in the world.

Fourth. This proposed canal is certainly located in that section of the Northwest which produced in 1879 more than 55 per cent. of all the corn and wheat raised in the United States.

Fifth. The construction of this canal has been earnestly recommended and asked for by memorials of governors and legislatures of Iowa and Illinois, by resolutions of a very large and respectable convention of delegates, representing the commercial and agricultural interests of the valley of the upper Mississippi, and by boards of trade of the large commercial cities of Chicago, Buffalo, and New York; and,

Sixth. The proposed canal when constructed will connect the Upper Mississippi River with the Illinois River, and the Illinois and Michigan Canal, and Lake Michigan, thus adding several hundred miles of navigable water to an eastward route to the seaboard by way of the lakes, the New York and Erie Canal, and the Hudson River.

The increased exports of domestic merchandise for the year 1881 over that of 1871 amounted in value to $455,527,039, 75 per cent., of which were agricultural products.

The United States has no competitors which surpass them in cheapness of production, and if they can surpass other nations in cheapness of transport they can control the markets of England, and of Europe generally; for it needs no statistics and no argument to demonstrate that the markets of the world are commanded by those nations which can sell the cheapest.

In view, therefore, of the earnest, urgent, and increasing demand, especially of the agriculturists of the country, for cheaper transportation, to which they are justly entitled; and in consideration of that sound public policy which demands such transportation facilities as will most conduce to the increase of the agricultural exports of the country, and to the cheapening of the same to all consumers in the Eastern States, who receive their supplies so largely from the West, your committee are of the opinion, that said canal should be constructed without unnecessary delay, and they therefore report back said bill and recommend the passage of the same.

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT 1000, Part 2.

ILLINOIS AND MISSISSIPPI CANAL.

APRIL 13, 1882.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. TOWNSEND, from the Committee on Railways and Canals, submitted the following

VIEWS OF THE MINORITY:

[To accompany bill H. R. 2248.]

The minority of the Committee on Railways and Canals is compelled to dissent from the conclusions reached by the majority in recommending the passage of the bill (H. R. 2248) "to provide for the construction of the Illinois and Mississippi Canal, and to cheapen transportation," otherwise known as the Hennepin Canal bill, and for such action respectfully beg leave to submit the following reasons:

In the first place, the minority doubt the constitutional right of the general government to enter a State and usurp the privilege of that State in constructing any projected improvement lying wholly within the limits of said State, and calculated to benefit few people outside of that State. Second. The policy of the general government in the past, in the matter of transportation, has not gone beyond the improvement of natural water-ways. Third. The work contemplated, lying within the State of Illinois, is not of that importance entitling it to the dignity of a national character. Fourth. As a remedy for the alleged evils of excessive charges for freight, it is inadequate. Fifth. So far as a connection between the lake and river systems, for all commercial purposes, is concerned, there are already five distinct channels of water communication, some of them of equal, or nearly equal, capacity to the present project. Sixth. The tendency of the times is averse to building canals, unless of very great size, for the passage of large vessels. Seventh. To make the proposed canal practicable, the appropriation of immense sums of money will be necessary to enlarge its eastern extension—the Illinois and Michigan Canal. Eighth. The general government, in its donations of the public domain and the public funds, has already shown a liberal spirit in grants to aid in the development of the particular section of the country to be benefited by the proposed canal. Ninth. Should the government enter upon the building of canals for transportation, thereby competing with the business of common carriers, it would prove a check to private enterprise, on which the country mainly relies for its development, and inaugurate a policy which the past has shown to be subversive of the public good.

If it can be proved that the proposed canal would be of no more than local benefit, conferring favors upon few people outside of the State of Illinois, the first reason given by your committee, that the constitutional right of the general government to enter a State and usurp the

privilege of that State in constructing any projected improvement lying wholly within the limits of said State, and calculated to benefit few people outside of that State, needs no amplification.

In the matter of transportation, the policy of the general government of late years has never gone beyond the improvement of natural waterways and subsidies to railroads. Public opinion has spoken so plainly against any further frittering away of the public lands to proposed railroad corporations, the great political parties have proclaimed so strongly against it, that it is doubtful if the policy in this direction will ever be revived. But now the people of the United States, through their Representatives in Congress, are asked to enter upon a great scheme of internal improvement in the building of canals, the like of which for magnitude has never before been known in the history of the world; for doubtless if the Hennepin Canal should be constructed the precedent would be set—the door would be opened for all sorts of schemes of like import.

Already the country has heard of the proposed Atlantic and Great Western Canal, the James River and Kanawha Canal, the Cumberland and Ohio River Canal, canals across the State of Michigan, canals across Florida, a canal from the Kentucky River to Savannah, Ga., canals connecting Chesapeake and Delaware Bays; and should any of these be begun by the general government, how long would it be before dozens, perhaps hundreds, of visionary schemes of like character would spring up all over this vast country?

In the expenditure of the public moneys for these great projects, in the hundreds of millions involved, will be corruption funds, jobs, and demoralizing influences greater than have ever been contemplated in anything that has gone before. Scandal and misfortune, the accompaniments of every such levy upon the public treasury, would be unparalleled. In proof of this, it need only be stated that the estimated cost of the different proposed Delaware ship-canals varies from sixteen millions at the lowest and thirty-odd millions for the highest, and these canals are all comparatively short routes.

It may be asserted that the Louisville and Portland Canal, the Rock Island Canal, the Des Moines Rapids Canal, the Sault Ste. Mary's Canal, and other works of like character—short lines of canal constructed to avoid natural barriers in long water-routes—lying wholly within the limits of certain States, would come within the meaning of one of the objections above given to the Hennepin Canal, but such an argument is without weight, for it is patent to any one that said canals are of no appreciable commercial benefit to the sections through which they run, but are rather of chief importance to the exigencies of trade at distant points along the water-systems of which they form a part.

It is said of the proposed canal that it is a work of national interest and importance by which the Upper Mississippi and its tributaries will be connected with the lakes, and a continuous water-route from Minneapolis on the Upper Mississippi River to the Atlantic seaboard will be afforded. The Upper Mississippi, beyond points possibly 20 or 30 miles above the western terminus of the Hennepin Canal, cannot be affected, for the reason that barges, such as are available for canal transportation, would find it much nearer to the seaboard by way of the Wisconsin and Fox River route. Freights from the Mississippi River a distance south of the western terminus would find it more expeditious by way of the more natural route of the Illinois River to the Illinois and Michigan Canal. The extreme Northwest would necessarily be dependent to a very great extent upon railroads. In seeking the lakes, freights would be diverted

either to Lake Superior or else they would be carried direct to Lake Michigan ports, finding it cheaper than to transfer the freights to barges on reaching the Mississippi River, to go through the Hennepin Canal, only to be again transferred from the canal barges to the lake vessels on reaching Chicago.

It is thus shown that even for the purpose of water transportation the construction of the Hennepin Canal could hardly prove a very important link to the existing chain. Doubtless it would be of benefit to the city of Chicago in forming one more channel to divert traffic toward that point.

The Hennepin Canal has been probably more widely discussed than any like project for many years. If its construction would draw to it such an immense traffic, why is it that Illinois, with all its great capital, could not find private enterprise sufficient to build it? Capital, where controlled by private individuals, rarely fails to engage itself with any valuable project, especially if it be so valuable as this is said to be. Why did not the State of Illinois build it? Certainly no people knew its advantages better than those of that State, and yet in a constitutional convention held in that State in 1870, where the whole merits of the proposed canal were discussed, an amendment was proposed and carried by 49 ayes to 11 noes, prohibiting the State of Illinois, through its general assembly, from ever voting to loan its credit to build this canal, and by a vote of 35 ayes to 25 noes prohibited the appropriation of a dollar for the purpose. This amendment, when submitted to the people for ratification, was carried by a vote of 142,540 ayes to 27,017 noes.

It is opposed by those whom it would be expected to most benefit. A few hours after the vote of the majority in favor of this bill, a telegram was received from business men in the vicinity of the proposed route, protesting against the measure and signifying their determination to oppose its passage by Congress. The residents along Rock River, from which stream it is designed to supply the canal with water, see in its construction a menace to their extensive water-powers and all the interests thereby involved. Already they have sought to amend the bill so that it will insure them against any damages to which they would be liable, except in the winter season, by the loss of their water-power.

The sources of Rock River are in a range of country almost denuded of forests, and scientific investigation long ago demonstrated the fact that large volumes of water could not take rise in such lands. There are more manufactories run by water-power on that stream than probably on any other river west of the Alleghanies, and in the dry season there is hardly sufficient water to keep all in operation. The engineers' estimates show that at least a large percentage of the water of Rock River would be needed.

As a remedy for the alleged evils of excessive charges for freight, the Hennepin Canal would be inadequate. It cannot affect freights south of the Illinois River, nor at points far north or west of the canal. It would only have the same effect as a competitive line of rail. Where, then, is the benefit to the nation at large? The Illinois and Michigan Canal, which would become an eastern division of the new route, has already cost the State of Illinois many millions of dollars, and scarcely pays running expenses, let alone interest on the expenditure. What reason is there to believe that the extension of the canal westward would so greatly increase the traffic by that route, except so far as local business is taken into account?

It is urged in behalf of the Hennepin Canal that it would unite the

navigable water system of the Mississippi River and its tributaries with the great lakes. The adherents of the bill ignore the fact that there are even now five distinct routes of water connection between the two systems, viz, the Wisconsin and Fox River route, the Illinois River and Illinois and Michigan Canal, the Wabash and Erie Canal, the Miami Canal, and the Ohio Canal, through all of which boats have gone from the lakes and down the great rivers, and *vice versa*.

The Wisconsin and Fox River improvement was undertaken prior to the era of railroads. In an act of Congress relating to the admission of the State of Wisconsin, approved August 6, 1846, a grant of lands was made to the Territory of Wisconsin, and ratified after its admission as a State, for the purpose of improving the two rivers mentioned and connecting them by a canal. In 1856 the State, finding its management of the Wisconsin and Fox River improvement unsatisfactory, turned the same over to a private corporation, and it was managed by a private corporation until about the year 1870, when steps were taken to secure its sale to the general government. The improvement has for many years been of very little use to the commerce of the country, and yet it was considered the most advantageous of all the water lines projected to connect the lakes with the Mississippi River, for, in speaking of its special advantages, Senator Windom, in the report of the Committee on Transportation to the Seaboard, enumerates the following advantages of this route:

> It runs on a direct line to the center of the great surplus wheat area of the country, which supplies the bulk of the grain shipments east, and to or near the centers of the surplus areas of other grains; second, it has less canal [only six miles], less lockage, and costs less than any other proposed route; third, its point of connection with the lake at Green Bay is nearly 200 miles nearer to the eastern markets than the southern end of Lake Michigan.

The Wabash and Erie Canal, running from Evansville, on the Ohio River, to Toledo, on Lake Erie, the Miami Canal, from Cincinnati to Toledo, and the Ohio Canal, from Portsmouth, on the Ohio River, to Cleveland, on Lake Erie, were in their time great routes of commerce, but the building of railroads has made them unprofitable, except for local trade, and the States to which they belong would doubtless gladly turn them over to the general government, and even pay a bonus to get rid of them. The cant phrase of cheap transportation will be made the hobby-horse on which to transfer to the general government many of the old slack-water navigation improvements and canals that have served their purpose, been superseded by railroads, are no longer profitable, and hence the several States to which they belong are anxious to get rid of them, and, under the guise of an attempt to inaugurate new enterprises like the Hennepin Canal scheme, will seek to have the general government take charge of and run them at the expense of the nation.

The tendency of the times is averse to building canals, unless of great size for the passage of large vessels. Time has become one of the chief factors of value in all business and commercial transactions. The shipper is glad to pay a higher rate to insure speed, where a choice between routes is offered him. So the railway passenger frequently pays an extra charge for riding on a train that will bring him to his destination a few hours ahead of a slower train. These influences and tendencies have had the effect of relegating the building of canals to the past, and to think of them, except of the greatest dimensions, is making progress backward.

Again, to make the proposed canal practicable, the appropriation of immense sums of money will be necessary to enlarge its eastern exten-

sion. The Hennepin Canal is designed, according to the bill, "for military and naval" as well as commercial purposes. Colonel Macomb, who surveyed the proposed route of the Hennepin Canal, said:

The most important and costly part of the route across this section of country is the portion between Hennepin and Chicago, for this part is essential as affording an eastern outlet for the Hennepin Canal traffic and for perfecting the navigation to Chicago from the Lower Mississippi River, through the Illinois River, which is now being improved for steamboat navigation from Hennepin Basin down to the Mississippi River. Indeed, the Hennepin Canal, without the improvement of the Upper Illinois River and the enlargement of the eastern portion of the Illinois and Michigan Canal, would be useless as an outlet for the freights of the Upper Mississippi River. * * * It will be seen by the report of the assistant engineer that the estimate for the route above sketched out for the navigable water-way from the Mississippi River near Rock Island to Chicago, on Lake Michigan, is $19,780,535, to which should be added the amount of increase in estimates for locks of proper size on Hennepin Canal, $641,284, making a grand total of $20,421,819.

And this, be it remembered, is for a commercial canal. In the estimated cost the right of way is not considered. Indeed, even the route to be followed is not clearly defined, and in going 65 miles no engineer can, in advance, contemplate all the obstacles to be overcome. As an instance of this may be mentioned the Suez Canal. Here was a route that had in past ages been utilized as a canal. The idea of the present canal was conceived, and, after years of surveying and studying, the engineers estimated that the cost would surely come within $40,000,000, yet the sequel proved disastrous to those who embarked in the scheme. Monarchies were rendered well-nigh bankrupt. Instead of $40,000,000, the canal cost $100,000,000.

Few memorials favoring the Hennepin Canal have been received except from a limited section of the country, in the vicinity of the proposed canal. Indeed, the prime movers of the enterprise come almost exclusively from that locality. In the case of "a work of national character and importance, and not merely of local importance," it might naturally be expected that the petitioners would come from several sections, representing to some extent the country at large, and not alone from a comparatively limited association, to whom the proposed work would be of such obvious and almost exclusive advantage.

Arguing, therefore, that the Hennepin Canal would be no more than a local enterprise, benefiting the people of a particular portion of Illinois and a small part of Iowa at the expense of the nation, it is well to consider the amount of aid which the general government has already granted to Illinois. Among the very first grants of land by acts of Congress to States for canal purposes was one of 290,915 acres to Illinois, granted March 2, 1827, for a canal to connect the waters of the Illinois River with those of Lake Michigan. This canal is now known as the Illinois and Michigan Canal, the eastern division of the proposed Hennepin Canal. The State of Illinois received the first grant of public land ever made by Congress for railroad purposes, September 20, 1850, for the Illinois Central and the Mobile and Chicago Railroads, the number of acres being 2,595,053. This original grant was one of the most valuable ever conferred on any State for such purpose, and not only the first but many times the largest conferred in the decade from 1850 to 1860.

Besides, Illinois has not failed to get her full quota of the annual appropriations for river and harbor improvements, and thus it cannot be said that the general government has neglected that State in its aid toward the development of the internal commerce of the several States; and the Northwest, which this canal is asked to benefit, is even now

equipped with a network of railroad, of which many are trunk lines, reaching far into the newer country. At least six of these systems running from Chicago alone are, generally speaking, competing lines. These roads are the Chicago, Milwaukee and Saint Paul, the Iowa Central, the Chicago and Northwestern, Chicago, Rock Island and Pacific, Chicago, Burlington and Quincy, and Chicago and Alton Railroads. These titles represent, not single lines, but enormous systems, owning and controlling valuable branches in all directions, five being north of the proposed line of the Hennepin Canal. These roads are even now straining every muscle, by buying up and building shorter lines, and by such princely advertising as is the curiosity of the railroad world, both here and abroad, to secure and retain sufficient business to keep in active employment their immense equipments, and competition between all those lines is always aggressive and sharp.

As a final reason for its opposition to the bill, the minority of your committee urge that, should the general government enter upon the building of canals for transportation purposes, thereby competing with the business of common carriers, such a step would prove a check to private enterprise, on which the country mainly relies for its development, and inaugurate a policy which the past has shown to be subversive of the public good. In every instance recorded by history where the general government of a nation has of itself entered into the conduct of all branches of industry, it has debauched the normal independence and industry of its people. Years ago Pennsylvania tried the experiment of building canals. They were never profitable. Rings for political and corrupt purposes were the result. To manage the canals a vast army of men were needed, they being chosen not so much because of any special fitness for their respective places, but because of their influence in winning votes at the polls. Demoralization prevailed everywhere, and in time, as a means of necessity and economy, the State sold its canals to private corporations. The Hennepin Canal, and others, which would follow, would be equipped with engineers, managers, lock-keepers, and employés appointed by the government. The office-holders and dependents of every administration would be multiplied immensely. The means of corrupting the people would be increased; the amount of money annually handled in government affairs would necessarily be much larger, and, what is worse, the incitement to competition, the life of all trade, would be gone. In a country of free institutions like the United States, rather than take from the people the power which they enjoy of doing so much of the business of life for themselves, such privileges should be increased.

In thus trying to make the government control various branches of trade many people are wholly unmindful of the fact that the general government does not even carry on its legitimate departmental work with anything like the economy and efficiency that characterize a well-managed private business firm.

And what is likely to happen, perhaps ere the Hennepin Canal could be completed? If the present bill be passed, on what shore will further petitioners pause? There is already before your committee a comparatively lengthy petition from citizens of Chicago, asking that a line of canal be surveyed from near Chicago, commencing at the southern bend of Lake Michigan, to Lake Erie, across at least 200 miles of country even an air-line. The establishment of the precedent is indeed unnecessary, and, being unnecessary legislation, it goes without saying that it is dangerous legislation. To-day many thoughtful and able writers on commerce predict that American railroad systems to the entire West

are increasing out of all proportion to present or approaching demands of trade. The recent resumption of financial prosperity has stimulated rival capitalists to almost abnormal enterprises. When the railroad systems now in process of construction are completed, competition on through freights from the entire West will be very sharp. The utter folly of any unnecessary governmental participation in such a strife of private enterprise is obvious.

While the minority of your committee is in favor of the most liberal governmental policy for the improvement of the natural water-ways, the navigable rivers, lakes, harbors of refuge, and the like, in every portion of the country, it is believed when this is done that the demands of sound statesmanship have been fully met. When the government can obtain for the asking thousands of miles of canal already in operation the wisdom of digging new lines is not apparent. The building of railroads and digging of canals can safely be left to private enterprises and to the local needs of States, and there need be no fear that, when it is found a demand for such improvements are necessary, the energy and enterprise of citizens will be ready and willing to suggest and execute the work.

The amount estimated as the cost of a ship-canal from Hennepin to Rock Island, $12,500,000, would build and equip a four-track railroad from Chicago to the Mississippi, with carrying capacity eastward of 9,000,000 tons annually. The amount of the estimate of Colonel Macomb for a commercial canal from Chicago to Rock Island, $20,500,000, would build two such lines of railroad with carrying capacity of 18,000,000 tons annually.

If the government wishes to enter upon the construction of free transportation routes, an idea which it is believed no one seriously entertains, why not, instead of canals, build railroads? Railroads have the advantage of running the year round, while canals are closed at least one-third of the time. They make a much more rapid transfer of freight; they reach the producer nearer his field; they develop and improve a country vastly more than a water-way.

Since writing the above report, your committee has received from a committee of citizens of Sterling and Rock Falls, Ill., a protest against the Hennepin Canal. Coming from a body of citizens so deeply interested in the project, the cogent reasons they give against its construction appeal so directly to the good judgment of every member of this House, that it is deemed proper to include it in this report. The protest is as follows:

STERLING, ILL., *March* 15, 1882.

DEAR SIR: The undersigned, a committee appointed at a meeting of citizens of Sterling and Rock Falls, Ill., to protest against the passage of a bill for the construction of a canal from Hennepin to Rock Island with a navigable feeder to Dixon, beg leave to present a few reasons for their opposition to said scheme.

First. The destruction of the manufacturing interests of Sterling and Rock Falls, which would inevitably follow the diversion of the water necessary to supply such canal and feeder from Rock River at or near Dixon.

By the report of Col. John N. Macomb made to the Chief of Engineers, United States Army, January 25, 1875, it will be seen that his assistant, Mr. F. C. Doran, who had charge of the survey of the Hennepin Canal, estimates the amount of water required for such improvement at 2,064 cubic feet per second. He does not give a gauge of the flow of water in Rock River, but one is given by a former assistant to Colonel Macomb, Mr. Gorham P. Low, who reported, April 10, 1871, "We were fortunate in making a careful measurement of the amount of water flowing in the Rock River at a time, October 11, 1870, when, according to the residents of that city, the river was at its lowest known stage. The amount of water at that date was found to be 2,446 cubic feet per second."

If 2,064 cubic feet per second is needed for the canal, then, in low water, 84.38 per cent. of the total flow of water will be diverted, or, practically speaking, the whole

river would be turned into the canal and all water-power below that point totally destroyed.

The cities of Sterling and Rock Falls, with a population of 8,000 people, have been built up almost entirely by manufacturing enterprises, which have been located on the water-power afforded by the Rock River, which flows between them. The loss to the manufacturing establishments by the destruction of the water-power could possibly be estimated by taking into account the sum of $2,000,000 invested therein, and the sum of $6,000,000 of manufactured articles shipped therefrom every year. But it is impossible to estimate or pay for the loss to other individuals in these cities, whose business is not manufacturing, but whose prosperity or ruin is involved in the success or failure of the manufacturing interests. It would be well to mention here that there are several other manufacturing points on Rock River below us, which would be injured and would also look to the government for relief.

In the estimate above referred to, for the amount of water required, a ship-canal is provided for, and as the main agitators of the Hennepin scheme are always claiming that it is a work of national importance, it is but fair to assume that the ship-canal is what they are really after.

Secondly. We are opposed to this bill because of the enormous expenditure of the public money involved in the scheme when fully developed, the first step being an appropriation of a single million of dollars, and the ultimate result the payment of at least of $125,000,000 from the government treasury. The engineers' estimate of a commercial canal from Hennepin to Rock Island, as reported to Colonel Macomb April 10, 1871, was $3,899,723.

In his later report, dated January 25, 1875, Colonel Macomb says, "Indeed the Hennepin Canal, without the improvement of the Upper Illinois River, and the enlargement of the eastern portion of the Illinois and Michigan Canal, would be useless as an outlet for the freight of the Upper Mississippi River." He therefore gives as his estimate of the total cost of a commercial canal, or, as he calls it, "a navigable waterway from the Mississippi River, near Rock Island, to Chicago on Lake Michigan," the sum of $20,421,819.

We have no estimates of government engineers of the cost of enlarging the Illinois and Michigan Canal to the ship-canal size, but assuming the increase of cost over that of enlarging to the smaller size canal, to be in the same proportion as the two estimates for the Hennepin Canal part, which are as $4,000,000 to $12,500,000, and we have the estimate of Colonel Macomb of $20,500,000 for a commercial canal raised to $64,000,000 for a ship-canal from river to lake. Now, keeping in mind the fact that government works constructed in the past under the management of goverment engineers and paid for by partial appropriations by Congress from year to year, have generally cost nearly double the original estimates (as for a notable instance the canal around the Des Moines Rapids of the Mississippi River, which was originally estimated at about $2,600,000 and actually cost about $5,000,000), and we have, as before intimated, as the final result of this entering wedge of an appropriation of $1,000,000 the expenditure of not less than $125,000,000.

That we are not alone in regarding this Hennepin Canal scheme as an entering wedge to other gigantic schemes for the spending of public money for local benefits is evident by the following extract from the Chicago Tribune of March 11, 1882. The extract is from an article giving an account of the views of Messrs. Martin Kingman, of Peoria, and B. F. Shaw, of Dixon, canal commissioners of the State of Illinois, on various questions pertaining to the Illinois and Michigan Canal. The article concludes as follows:

"As to the effect of the success of the Hennepin Canal scheme upon the Illinois and Michigan ditch the commissioners thought it would be beneficial, and they hoped the friends of the measure would succeed in getting Congress to grant the subsidy asked for. The completion of the Hennepin Canal would, they believed, be the entering wedge to the enlargement and deepening of the Illinois and Michigan Canal, and making it eventually a ship-canal of sufficient capacity to accommodate the largest lake vessels, and even to transport men-of-war from the lakes to the Mississippi River."

Thirdly. We are opposed to this bill as inaugurating a scheme for the unnecessary expenditure of millions of the people's money.

The advocates of the canal claim a government appropriation for building a national highway to cheapen transportation. They publish a map of the route, on which they give a statement comparing railway rates, with what they assume rates will be, through the proposed canal, and endeavor to show a saving of 50 per cent.

This statement is erroneous and defective. For instance, they give as the average cost of transporting a bushel of grain by rail to Chicago, from Saint Paul, Winona, La Crosse, and Prairie Du Chien, 18.9 cents. We know from actual shipments made during the past five years from these points that the all-rail rate has not exceeded 12 cents per bushel on wheat, coarse grains being carried at lower rates; and at this low rate millers are allowed to stop the wheat at any point on the line, manufacture into flour, reload and ship through without further charge.

They assume the average cost of water transportation from these four points to be 10.5 cents per bushel. In this assumed rate they add nothing for elevator charges, cost of transfer to barges, or insurance on river and canal. If these necessary additions are made to their fictitious water-rate, it would be increased to more than the actual rates now and heretofore charged by the railroads.

The State of Illinois many years ago, at great expense to the people, built the Illinois and Michigan Canal, and that canal, in connection with the Illinois River, was, for a considerable period, of great advantage to the country through which it passed. But this water-way has nearly outlived its usefulness, on account of the construction of two of the most prosperous railroads in the State, the Chicago, Rock Island and Pacific, and the Chicago, Alton and Saint Louis, one on either side of the canal, and in close proximity to it. The canal, having the advantage of being built first with elevators and warehouses located on its banks along its entire length, has gradually lost the grain-carrying trade, until now an examination of the line of the canal will show that the elevators have either been removed to the railroads, or are going to decay about as fast as the weather will permit.

The railroads along the line of the canal are carrying nine-tenths of the grain, and at rates no less than are accepted by roads running through the northern part of the State, and not in the vicinity of the canal. This shows conclusively that our present canal cannot successfully compete for the freight in the section through which it passes, and to-day the citizens of Illinois would gladly turn it over to the general government.

Now, if the railroads carry the grain shipped from points along our present canal, is it safe to assume for the proposed canal that the railways west of the Mississippi River, will act as willing feeders to it, and collect the products of the country through which they pass, and deliver them over to the water-way at a rate which would be against their own interests?

Is it not much more reasonable to suppose that the railways now traversing Illinois, some 15 in number, and which either own or control all the connecting lines west of the Mississippi River, will carry the freight through from the river to the lake at an expense but little, if any, greater than would be the cost to transfer to vessels or barges, and thus save to the shipper the entire expense of freight and time of shipment by the water-way proposed?

Finally, while we are willing to admit that there are some minor local advantages, both real and imaginary, which will benefit some of the friends of the scheme, such as the expected drainage of a large amount of swamp lands owned by interested parties, the building and maintaining at government expense of a substantial stone dam at Dixon, the spending of further large sums of public money in and about Rock Island and Davenport, and the furnishing of much needed sewerage for the city of Chicago, we at the same time earnestly protest against a scheme which, having actually no real merit as a national enterprise, will result in depriving the State of Illinois of numerous and valuable water-powers on Rock River, the only stream in the State which can furnish facilities for building up manufacturing enterprises that will be as valuable to her as those on the Merrimac are to Massachusetts.

Respectfully, yours,

B. C. CHURCH,
D. I. JENNE,
A. P. SMITH,
W. A. SANBORN,
Committee.

Hon. AMOS TOWNSEND,
Chairman Committee Railways and Canals, U. S. House of Representatives.

When, as in the present case, the government is asked to take a step so much at variance with every precedent in its past policy, the question is deserving of the most serious consideration. The minority of your committee felt it incumbent upon them to set forth at length the views which led to the conclusions reached in this report. Much more could be said why the general government should not build the Hennepin Canal, but it is believed sufficient reason has already been shown why the measure should not become a law, and therefore the minority of your committee report adversely upon the bill.

AMOS TOWNSEND.
J. W. DWIGHT.

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1001.

THE HOT SPRINGS RESERVATION IN ARKANSAS.

APRIL 11, 1882.—Referred to the Committee on Appropriations and ordered to be printed.

Mr. CRAVENS, from the Committee on the Public Lands, submitted the following

REPORT:

[To accompany Ex. Doc. 42, first session Forty-seventh Congress.]

The Committee on the Public Lands, to whom was referred the message of the President, transmitting a communication from the Secretary of the Interior relative to an appropriation for the improvement of the Hot Springs Reservation in Arkansas, report the same back with a recommendation to the Committee on Appropriations to incorporate in an appropriate bill an appropriation of $33,744.78, the sum therein mentioned, for such improvement in the manner indicated by the Secretary. As early as 1810 the Hot Springs were known to exist, and visited by white men, although the country at that time was claimed and occupied by the Quapaws. The Indian title was extinguished in 1818. Thus becoming a part of the unencumbered public domain, claims were made under the land laws of the United States.

The heirs of John Percifull have asserted that as early as 1813 he built a house at the Springs and made claim under the pre-emption law of 1814.

In 1819 Hammond and Rector filed their application, dated the 27th of July, 1819, for entry of 200 arpents, with a New Madrid certificate, and in 1820 the surveyor returned and filed his survey and plat of the location of their warrant in the office of the surveyor-general.

In 1829 Ludovicus Belding occupied a house as tenant of Percifull and cultivated a small plat of land, and claimed under the act of 1830, giving to settlers or occupants in possession the right of entry, &c.

In 1832 the Congress passed an act which provided that the Hot Springs "shall be reserved for the future disposal of the United States, and shall not be entered, located, or appropriated for any other purpose whatever."

In 1838 the lands in the locality of Hot Springs were surveyed and put upon the market, except four sections reserved by the act of 1832.

From that time until 1851 the widow and heirs of Percifull and Belding made repeated applications for entry under their respective claims. At that time a patent was granted to the Belding heirs, but soon thereafter canceled.

These claims did not cover identically the same lands, but overlapped, from which circumstance litigation sprang up and continued for a quarter of a century. In the mean time the Springs attracted attention, and people flowed in and bought or leased from one or other of the claim-

ants. Hammond and Rector could exhibit a certificate of location, and the Belding heirs a patent, and when their claims did not conflict people bought or leased, as they thought, with safety. After years and years of litigation the Congress in 1870 passed the act providing "that any person claiming title, either legal or equitable, to the whole or any part of the four sections of land constituting what is known as the Hot Springs Reservation," &c., "may institute against the United States in the Court of Claims, and prosecute to final decision, any suit that may be necessary to settle the same." Said act also provided that in the event such suits were decided in favor of the United States, the court should order said *lands* into the possession of a receiver to take charge of and rent out the same. Suits were brought by the claimants under this act, and in consolidated form heard; upon the hearing whereof it was decided by the Court of Claims that no legal entry, location, nor pre-emption of said lands had been made by either of the parties.

This judgment of the Court of Claims was affirmed by the Supreme Court April 24, 1876. A receiver appointed by the Court of Claims thereafter took charge and rented to the people their *houses*, the lands not being desirable without them, and so remained in charge until the 3d March, 1877, when the law providing for the appointment of a receiver was repealed. From the rents the sum of $33,744.78 was the amount derived and paid into the Treasury over and above all expenses attending the collection of the same. The act of March 3, 1877, repealing so much of the act of 1870 as provided for the appointment of a receiver, also provided for a commission whose duty it was made to lay off the four sections of land into convenient squares, blocks, lots, avenues, streets, and alleys, first laying off a permanent reservation, embracing the hot waters. It was further made the duty of the commission to adjudicate the rights of occupants to lands "claimed by reason of improvements," upon whom was conferred the right of entry at the appraised value of the lands, aside from the improvements.

The commission was required to appraise the improvements separately, and in cases where the improvements were condemned by it to the use of the government, under the provisions of the act, they were required to and did issue certificates to the owners, showing the value of the improvements. Under the act of June 16, 1880, certificates so granted for condemned improvements, part of the same for which rents had been collected as before stated, were made receivable in payment of lands, the right of entry of which the commission awarded to occupants and claimants. This much of the history of Hot Springs is given to show the exact source from which the money mentioned in the letter of the Secretary was derived; and it discloses the fact that it was derived in part from the rent of houses for which the government afterwards made payment to the owners, upon their condemnation, and the rent of others the ownership of which has been acknowledged to be in the occupants. If it was right to pay for the buildings condemned, and to acknowledge ownership in the buildings to those not condemned, it was not right to collect rents therefor from the 24th of April, 1876, to March 3, 1877; and many people at Hot Springs who were compelled to pay rent for the buildings in which they were born will always feel that they were wronged.

It is believed that the Congress never contemplated such results in the passage of the act of 1870. Although the amount of money proposed to be appropriated was derived from so unusual a source, it ought not to be needlessly appropriated to satisfy the demands of any one, but if it can be appropriated to a purpose useful to the government and

at the same time beneficial to the persons from whom it was drawn, it certainly ought to be done. Your committee, from an examination of the map of the town and from information derived from persons familiar with it, is led to fully concur with the Secretary in his recommendation. The proposed improvement is upon the permanent reservation, and will be, if made, of lasting benefit to that property. The value of the reservation in its unimproved condition is incalculable. That the wealth of health may be more certainly secured to the visiting thousands from every quarter of the globe, the improvement of the creek serving as a sewer, is important. As is said by the Secretary, the principal street of the town cannot be graded and made what it ought to be by the town authorities until this proposed work is done by the government. Every citizen who contributed a cent of the $33,744.78 will be interested in and derive benefit from the proposed work as a sanitary measure and aid to the improvement of the great thoroughfare of the town. The appropriation recommended by the Secretary is favored as a measure beneficial to the owners of this property, the whole people, and both beneficial and just to the citizens of Hot Springs.

C

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1002.

TAXATION BY THE STATES OF LEGAL-TENDER NOTES.

APRIL 12, 1882.—Reported adversely, referred to the House Calendar, and ordered to be printed.

Mr. DINGLEY, from the Committee on Banking and Currency, submitted the following

REPORT:

[To accompany bill H. R. 131.]

The Committee on Banking and Currency, to whom was referred the bill (H. R. 131) authorizing the taxation by the States of the legal-tender notes of the United States, having had the same under consideration, respectfully submit the following report:

The only question which your committee were called upon to consider, was whether it is competent for Congress to authorize the taxation of United States notes or greenbacks, under State authority.

The United States notes, of which $346,681,016 are now outstanding, were issued under the acts of February 25, 1862, July 11, 1862, and March 3, 1863, which acts all provided for their reissue as returned to the Treasury, and contained the following provision:

All stocks, bonds, and other securities of the United States held by individuals, corporations, or associations within the United States, shall be exempt from taxation by or under State authority.

To remove all doubts as to the proper construction of this exemption clause, the Supreme Court of the United States, in 1868, in the case of *Bank* vs. *Supervisors*, reaffirmed the principle settled in 1829, in the case of *Preston and others* vs. *The City Council of Charleston*, to the effect that obligations or securities of the United States Government are contracts and cannot be taxed under State authority, because it would be a tax on the power of the government to borrow money; and held that United States notes or greenbacks are securities of the government, and as such are exempt from taxation. We quote from the opinion of Chief Justice Chase in this case:

These notes are obligations of the United States. Their name imports obligation. Every one of them expresses upon its face an engagement of the nation to pay the bearer a certain sum. The dollar note is an engagement to pay a dollar, and the dollar intended is the coined dollar of the United States—a certain quantity in weight and fineness of gold or silver, authenticated as such by the stamp of the government.

* * * * * * *

We think it clearly within the discretion of Congress to determine whether, in view of the circumstances attending he issue of the notes, their usefulness as a means of carrying on the government would be enhanced by exemption from taxation; and within the constitutional power of Congress, having resolved the question of usefulness affirmatively, to provide by law for such exemption.

There remains, then, only this question: Has Congress exercised the power of exemption?

A careful examination of the acts under which they were issued has left no doubt in our minds on that point.

* * * * * * *

We have already said that these notes are obligations. They bind the national faith. They are therefore strictly securities. They secure the the payment stipulated to the holders by the pledge of the national faith, the only ultimate security of all national obligations, whatever form they may assume.

* * * * * * *

Our conclusion is that the United States notes are exempt from taxation under State authority.—*Bank* vs. *Supervisors, 7th Wallace* 26.

It would seem as if the opinion of the United States Supreme Court and the law authorizing the issue of these notes settled beyond question not only that they are exempted from taxation, but also that this exemption is in the nature of a contract which cannot be impaired by subsequent legislation.

The bill referred to your committee proposes to authorize the taxation of outstanding United States notes only when they are redeemable in coin. It assumes that inasmuch as actual payment and cancellation of the notes would terminate all the rights which attach to them, therefore the fact that the government redeems them when presented, and at once reissues them, answers the same purpose. In the judgment of your committee, so long as the law prohibits the cancellation and authorizes the reissue of these notes, they are in legal effect outstanding, whether in the Treasury or in circulation, and exempt from taxation under a contract which Congress has no power to impair.

Undoubtedly this exemption of greenbacks works more or less inequalities in taxation. In the case of bonds, their exemption from taxation works little injustice, because the nation gets the benefit of a lower rate of interest on its loans in consequence of such exemption. The bondholder simply pays his tax semi-annually by deducting it from his interest. But in the case of United States notes there is no such compensation.

The only remedy that is open is to call in and pay off the greenbacks as well as the bonds, and to cancel them. When the nation in its extremity issued the United States notes as a forced loan, it was expected that they would be funded and promptly paid off at the close of the war. Although given the functions of money by law, by reason of the necessities of the situation, and solely as a war measure, yet no one contemplated that they were to be a permanent credit currency. In order to increase their value, they were exempted from taxation, as had been every previous temporary issue of Treasury notes, as well as of bonds.

If the existing issue of greenbacks is to be maintained in circulation, they must be accepted with the exemption from taxation which attaches to them; while national-bank notes and coin will be subject to taxation under State authority.

Your committee, therefore, report back the accompanying bill with an adverse recommendation.

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1003.

EXTENDING THE OPERATION OF THE LIGHT-HOUSE BOARD OVER THE ILLINOIS RIVER.

APRIL 12, 1882.—Referred to the Committee on Appropriations and ordered to be printed.

Mr. WARD, from the Committee on Commerce, submitted the following

REPORT:

[To accompany bill H. R. 4486.]

The Committee on Commerce, to whom was referred the bill (H. R. 4486) "extending the operation of the Light-House Board over the Illinois River," beg leave to report the same back to the House with the recommendation that it do pass. This recommendation is grounded upon the facts and views set forth in the accompanying letter from the Light-House Board.

TREASURY DEPARTMENT,
OFFICE OF THE LIGHT-HOUSE BOARD,
Washington, April 3, 1882.

SIR: Respectfully referring to department letter (E. W. C.) of March 15, transmitting, among other papers for the views of the board, bill H. R. 4486, extending the operations of the Light-House Board over the Illinois River, I beg leave to say that this matter has been carefully considered and the conclusion reached that the river in question should be lighted.

In the opinion of this office, the distance requiring lights is but two hundred miles from the mouth of the river to Peoria, Ill. The channel changes but little, and the lights would consequently be nearly permanent.

One important feature in lighting the Illinois River would be to have the ten railroad bridges lighted uniformly. At present they are lighted so irregularly and indifferently that steamers are in much danger in passing through the draws.

The tonnage coming out of this river to Saint Louis for 1880 amounted to over 155,000 tons, exclusive of live-stock; and this is greater than that of the Missouri River, which is lighted.

The cost of establishing twenty beacon-lights, the number thought necessary, is estimated at $1,852, and the cost of annual maintenance, $4,775; total, $6,627.

The board, therefore, is of opinion that the passage of bill H. R. 4486 would be for the interests of the general commerce of the waters in question, and suggests that the blank in the bill be filled by inserting seven thousand dollars as the amount required to carry into effect the object contemplated.

Bill H. R. 4486 is herewith returned.

Very respectfully,

JOHN RODGERS,
Rear-Admiral, U. S. N., Chairman.

The honorable THE SECRETARY OF THE TREASURY.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1004.

EXPERIMENTAL FARMS IN CERTAIN STATES.

APRIL 12, 1882.—Laid on the table and ordered to be printed.

Mr. VALENTINE, from the Committee on Agriculture, submitted the following

REPORT:

[To accompany bill H. R. 5404.]

The Committee on Agriculture, to whom was committed House bill No. 5404, have had the same under consideration, and report it back to the House with the recommendation that it do not pass.

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47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1005.

LAND FOR A HOTEL AT FORTRESS MONROE.

APRIL 12, 1882.—Laid on the table and ordered to be printed.

Mr. GEO. R. DAVIS, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 1775.]

The Committee on Military Affairs, to whom was referred a bill (H. R. 1775) to authorize the Secretary of War to grant the use of certain lands at Fortress Monroe, Virginia, for the erection of a hotel, having had the same under consideration, respectfully submit the following adverse report:

This bill provides, for the convenience of the military service and the traveling public, that the Secretary of War be authorized to lease to Messrs. T. P. Pendleton & Co., for the erection of a hotel, the use of so much of the land of the United States at Fortress Monroe, Virginia, as may be necessary for said purpose.

The bill also designates the exact piece or parcel of land required, and provides that the erection of the buildings shall meet with the approval of the Secretary of War, and shall be removable at his pleasure, and at the expense of the parties owning the buildings.

It does not appear that there is any public need of the hotel in question; if there is it has not been suggested to the committee.

The Secretary of War having been requested to communicate to the committee the necessity for leasing this property for the erection of a hotel "for the convenience of the military service," as stated in the bill, or for the convenience of any one else, transmits, in letter of the 1st of March, 1882, copies of letters giving the views of General George W. Getty, U. S. A., commanding the United States forces at Fortress Monroe, in which he states that—

> It would mask an important front of the fort and render the quarters inside it exceedingly disagreeable, if not unhealthy, for occupancy by the garrison; consequently, so far as such a hotel being a convenience to the military service is concerned, I regard it, on the contrary, as highly prejudicial thereto as well as to the other government interests.

Also copy of letter from General Q. A. Gillmore, Corps of Engineers, in charge, who not only concurs in all that General Getty says of the scheme but adds that "the proposed new hotel will occupy the ground selected for a ten (10) gun sea-coast battery, the construction of which has been approved by the War Department, and for which no other suitable site can be found at Old Point Comfort," also copy of letter from General H. G. Wright, Chief of Engineers, U. S. A., who concurs in the views of General Gillmore.

In all of which the Secretary of War concurs, as shown in the following letter:

WAR DEPARTMENT,
Washington City, March 1, 1882.

SIR: I have the honor to acknowledge the receipt of your reference of H. R. 1775, a bill to authorize the Secretary of War to grant the use of certain land at Fortress Monroe, Virginia, for the erection of a hotel. In response to your request of January 20th last for such data as can conveniently be furnished the Committee on Military Affairs, I beg to invite the attention of the committee to the inclosed copies of reports on the subject from General George W. Getty, commanding at Fortress Monroe, from General Q. A. Gillmore, Corps of Engineers; and from General H. G. Wright, Chief of Engineers, in whose views I concur.

Very respectfully, your obedient servant,

ROBERT T. LINCOLN,
Secretary of War.

Hon. GEO. R. DAVIS,
Chairman Subcommittee,
Committee on Military Affairs,
House of Representatives.

Your committee, therefore, report back H. R. 1775 with recommendations that it do not pass.

[Third indorsement.]

HEADQUARTERS UNITED STATES ARTILLERY SCHOOL,
Fort Monroe, Virginia, February 6, 1882.

Respectfully returned through Headquarters Department of the East.

The amount of land outside of the fort upon which buildings might be erected is exceedingly limited and is now almost entirely built upon, or privileges therefor held already. The site for the hotel proposed in House bill No. 1775, inclosed, would mask an important front of the fort, and render the quarters inside it exceedingly disagreeable, if not unhealthy, for occupancy by the garrison; consequently, so far as such a hotel being a convenience to the military service is concerned, I regard it, on the contrary, as highly prejudicial thereto as well as to other government interests.

The convenience of the traveling public I consider to be amply provided for already in the hotel now existing, which is much larger than such necessities have yet, or in my opinion are likely to exhibit a demand for.

I am, therefore, of the opinion that the reasons urged for this, or other bills having in view an increase of buildings at Fort Monroe, Virginia., other than what may be required by government uses, are imaginary.

I would respectfully suggest that these papers be referred to the officer of the Corps of Engineers in charge, Lieut. Col. Q. A. Gillmore, should further judgment be required.

GEORGE W. GETTY,
Colonel Third Artillery, Bvt. Maj. General, U. S. A., Commanding.

[Seventh indorsement.]

UNITED STATES ENGINEER OFFICE,
New York, February 20, 1882.

Respectfully returned to the Chief of Engineers, U. S. A., with the report that, in addition to the statements set forth in the indorsement of General G. W. Getty, in all of which I fully concur, the proposed new hotel will occupy the ground selected for a ten-gun sea-coast battery, the construction of which has been approved by the War Department, and for which no other suitable site can be found at Old Point Comfort.

This battery will constitute a very essential addition to the strength of the existing feeble defenses of Hampton Roads, and the approach to Norfolk, the Portsmouth Navy-Yard, and the James River.

It is the intention to construct this ten-gun battery with the first appropriation made for this locality.

A plan of the three most important forts of Fort Monroe, showing the sites of the new battery and of the proposed hotel, is transmitted herewith.

Q. A. GILLMORE,
Lieut. Col. of Engineers, Bvt. Maj. Gen., U. S. A.

[Eighth indorsement.]

OFFICE CHIEF OF ENGINEERS, U. S. ARMY,
February 21, 1882.

Respectfully returned to the Adjutant-General, U. S. Army, inviting attention to the preceding indorsement by the engineer officer in charge of the construction and repair of the defenses at Fortress Monroe, whose views are concurred in by me.

The plan of the battery, which is to occupy the site desired for hotel purposes, was approved by the Secretary of War, February 14, 1874.

H. G. WRIGHT,
Chief of Engineers, Brig. and Bvt. Maj. Gen.

C

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1006.

WAGON ROAD FROM WASHAKIE TO YELLOWSTONE PARK.

APRIL 12, 1882.—Laid on the table and ordered to be printed.

Mr. GEORGE R. DAVIS, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 3174.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 3174) to construct a military wagon road from Fort Washakie, Wyoming Territory, to the Yellowstone National Park, having considered the same, respectfully submit the following report:

This bill provides for the appropriation of the sum of forty thousand dollars for the construction of a military wagon road from Fort Washakie to the National Park. It does not appear that there exists any military or commercial necessity for the building of this road.

The General of the Army in report to the Secretary of War, under date of February 16, 1882, referring to this subject, says:

> That such a road might be traveled by persons visiting the Yellowstone Park from the direction of the Union Pacific Railroad, but so far as I know will fulfill no military or commercial use.
>
> The Yellowstone Park is usually reached from the West by the narrow-gauge railroad from Ogden to the neighborhood of Henry Lake, thence in military wagons or horseback by a practicable road, or by the Northern Pacific Railroad, now completed to Fort Keogh. The probabilities are that this railroad will, in fall of 1882, approach the Park at least two hundred miles nearer.

The committee therefore report back H. R. 3174 adversely, and recommend that the bill lie upon the table.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1007.

APPROPRIATION FOR THE PURCHASE OF TORPEDOES.

APRIL 12, 1882.—Referred to the Committee on Appropriations and ordered to be printed.

Mr. B. W. HARRIS, from the Committee on Naval Affairs, submitted the following

REPORT:

Be it resolved by the House of Representatives of the United States of America in Congress assembled, That the Committee on Appropriations be directed to consider the propriety of inserting as an item in the naval appropriation bill the following:

That the sum of five hundred thousand dollars, or so much thereof as may be necessary, is hereby appropriated for the purchase and manufacture of, and experiments with, the best movable torpedoes, under the direction of the Secretary of the Navy: *Provided,* That the disbursements under this act shall be made, as far as practicable, for the mutual advantage of the military and naval service; and all payments shall be made by the Secretary of the Treasury, on the report of the Secretary of the Navy.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT. No. 1008

PRIZE-MONEY AND PENSIONS IN THE NAVY.

APRIL 12, 1882.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. MORSE, from the Committee on Naval Affairs, submitted the following

REPORT:

[To accompany bill H. R. 5096.]

The Committee on Naval Affairs, to whom was referred the bill, (H. R. 5096) to abolish prize-money, and to regulate pensions in the Navy, having duly considered the said bill, report the same back to the House, with a recommendation that it do pass.

It will be seen by the House, upon reference to said bill, that it proposes a departure from a policy which has been coeval with the history of the government. Indeed, ever since men-of-war have ridden the ocean the capture of any of the vessels and goods of their enemies have been esteemed prizes, and, either in kind or in money, set apart and distributed among the captors, and by all naval powers such distribution has been regarded as lawful and proper. For the risks, hazards, and perils to be encountered upon the high seas, such prize has been esteemed but a legitimate compensation to those who may have incurred them, and unquestionably governments have regarded such awards as an inducement to the creation and maintenance of a navy.

Under the laws of the United States the proceeds of all ships and vessels, and goods taken aboard of them, captured by any public vessel belonging to the United States, and under the law might be judged good and lawful prize, was the sole property of the captors, or half of which was immediately distributed under said laws to the officers and men engaged in making the capture; the other half was paid into the Treasury of the United States to be held in trust as a naval pension fund for the benefit of the officers and men of the United States Navy; and the fact is, now, under the operation of these laws, there is to the credit of the naval pension fund, in the Treasury of the United States, the sum of $14,000,000. At the time it was paid in, the government was paying to its creditors six per cent. per annum interest, and this sum for a while was allowed on the naval pension fund, but, in the year 18—, without consultation with the parties to whom it belonged, the government determined that it would pay only three per cent. interest upon said fund.

Waiving any expression of opinion as to the right and justice of this legislation, your committee simply remark that it apparently has been acquiesced in by all parties.

Now it is proposed by this bill that hereafter the entire proceeds of all ships, vessels, and goods which may be captured and adjudged good and

lawful prize shall be the sole property of the United States, to be credited, however, to the naval pension fund and in consideration of this abandonment of one-half of the proceeds by the captors. the government shall undertake that all pensions now or hereafter paid or allowed to the widows or other heirs of the staff officers of the Navy shall be one-half the furlough pay, *i. e.*, one-quarter of leave-of-absence pay of such officers, respectively, at the time of their death, and that all pensions now or hereafter paid or allowed to the widows and other heirs of the Navy shall be the same as those of the line officers with whom such staff officers held relative rank, respectively, at the time of their death; provided that no pension shall amount to more than $60 nor less than $30 per month, and provided further that the same restriction as to the length of time that such pensions are to continue shall remain in force as at present.

The scale of pensions to be paid per month for the widows and orphans of naval officers as proposed by this bill would be as follows:

Admiral, vice-admiral, rear-admiral, commodore	$60 00
Captain	58 33
Commander	47 92
Lieutenant-commander	45 83 to $41 66
Lieutenant	37 50 to 33 33
Master, ensign	30 00

The whole question involved in this bill is, whether it is better for the officers and men of the Navy to abandon their immediate prize-money and thereby secure the rate of pensions thus mentioned or not, and is it good policy upon the part of the government so to do?

The progress in modern warfare, with its tendency to remove all individual and personal motive from the parties engaged therein, and to conduct it upon a plane above the baser passions, induces your committee to believe that this is a wise reform, and that it is better to rely upon the attachment of the sailor to the cause and the flag of his country than to motives which spring from the mere hope of booty. They, therefore, recommend the passage of the bill.

ARGUMENT FOR THE ABOLITION OF PRIZE-MONEY IN THE NAVY.

In the first place, the operation of prize-laws is very unequal, and is in no wise dependent upon the skill and energy of the officers and men concerned, but rather upon the speed and other qualities of the vessel to which they may happen to be attached, and upon the character of the service to which she may be deemed best adapted; and, even under similar circumstances, the success of one or the other vessel is purely accidental.

If the principle of prize-money is to be retained at all, it would be far better that the distribution should be made by squadrons—or, better still, equally throughout the whole service—instead of, as now, to the capturing vessel alone; for great disaffection is sure to pervade those vessels which, although equally well-officered and manned, and encountering equal hardships, and exercising equal vigilance, are precluded from making captures, while others are detailed for duty where alone prize-money is to be made.

Another serious objection to the present system is that it often develops a painful amount of greediness in officers—prompting them to acts which are calculated to exclude others from sharing in their captures, or to include themselves in captures made by others (and in either case unjustly), when, but for this great temptation, they would have done nothing to lower the tone of the service, or to have engendered bitterness towards themselves.

Again: People have dared to hint, both in and out of the service, during the late war, that certain ports would never be taken so long as the capture of blockade-runners in their vicinity was so profitable, as officers did not care to kill the goose that laid their golden eggs. Now, whether such a degrading suspicion were just or not,

a system which exposes officers to it, and which even affords a temptation to make it deserved, is not adapted to an honorable profession. It should be borne in mind how great a proportion of human virtue is dependent upon the absence of temptation, even among Navy officers.

It has, however, been urged that the hope of prize-money is a necessary stimulus towards keeping up the vigilance and energy of officers and men engaged on a blockade or cruising on the ocean; but apart from the possibility of its working out quite different results (as already shown), no one will hesitate to declare that, without it, the tone of the Navy is sufficient to make the officers perform their duty, and its discipline enough to compel the men; and in either case, the mere instinct of hunting, which man has in common with so many other animals, will always make him eager to discover, to chase, and to capture or destroy an enemy without the smallest thought of gain. Formerly, plunder was thought to be not only the legitimate ambition but the necessary stimulus of the soldier, although it is now condemned by modern civilization; and there is no reason why prize-money should not be considered equally disgraceful to the sailor.

The only real objection to the abolition of prize-money is that—in case we should find it expedient in some future foreign war to resort to privateering, where prize-money is an essential feature—it might be found difficult to enlist men for our vessels of war, where they would get "more hard knocks than half-pence"; but our experience during the late war shows most conclusively that the "old salts" preferred the *certainty* of bounty in the Army to the *chance* of prize-money in the Navy; and we had only to offer the same inducement as the Army, when they were all eager to return to their proper branch of the public service.

There is every reason, therefore, to do away with this relic of the loose and barbarous customs of the old buccaneers, and we should be the first among the nations of the earth to recognize and adopt a higher standard of morality and honor. We ought, in fact, to go even farther than is here proposed, and gain the assent of the whole civilized world to the great American proposition—that private property not contraband of war should be exempt from capture on the ocean, as it already is on the land. As on the land one of "the twin relics of barbarism" (slavery and Mormonism) has been abolished, so also on the sea one of its twin relics (flogging and prize-money) has disappeared; and let us hope that this Congress will effectually dispose of the other two. A bill is herewith submitted for this purpose, and, as the entire proceeds of all captures will hereafter go to the credit of the naval pension fund, instead of the half, as heretofore, it is only just that the naval pensions, which have always been ridiculously small, and equally small for all classes of officers, should at least be doubled, and graduated somewhat to the rank and services of the officer.

WASHINGTON, D. C., *January* 23, 1882.

The foregoing argument is entitled to consideration, as containing the views of an eminent and experienced officer in our naval service.

WILLIAM H. HUNT,
Secretary of the Navy.

ARGUMENT FOR THE INCREASE OF NAVY PENSIONS.

The present rate (of $30 a month, without regard to rank or services, except by special enactment) was established many years ago, when the cost of living was far less than now; is, therefore, wholly inadequate to the decent maintenance of its recipients, and is entirely out of proportion to the rates that have been lavished upon the soldiers and their widows and orphans.

The attention of Congress is being constantly called to the appeals of these distressed women and children, and the proposed scale is but a moderate and reasonable increase, which would free Congress from their importunity.

As to the increased cost, it should be borne in mind that the $14,000,000 which constitute the naval pension fund was, by order of Congress, invested in government bonds bearing interest at 6 per cent.; but, as this yielded more than was required, this rate of interest was arbitrarily reduced to 3 per cent., and if the original 6 per cent. were restored it would yield just about enough to cover the increased cost.

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1009.

PROMOTE EFFICIENCY OF THE NAVY.

APRIL 12, 1882.—Referred to the House Calendar and ordered to be printed.

Mr. THOMAS, from the Committee on Naval Affairs, submitted the following

REPORT:

[To accompany bill S. 689.]

The Committee on Naval Affairs, to whom was referred Senate bill 689, *having had the same under consideration, beg leave to report:*

That under the law, as it now exists, many officers who have been educated at the expense of the government, and who have during their service contracted habits of intemperance and other immoral practices which disqualify them for the honorable position of an officer in the United States Navy, are placed on the retired list, and their services are lost to the government, when, but for their conduct, they would remain on the active list. Therefore your committee recommend the passage of this bill with an amendment, so that the government may rid itself of a lot of useless official material.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1010.

COMMANDER WILLIAM GIBSON.

APRIL 12, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. THOMAS, from the Committee on Naval Affairs, submitted the following

REPORT:

[To accompany bill H. R. 2648.]

The Committee on Naval Affairs, to whom was referred the bill (H. R. 2648) for the relief of Commander William Gibson, of the United States Navy, to correct errors in prize-money distributions to him in manner described in the said bill, report as follows:

That the prizes named in said bill (H. R. 2648) were adjudicated and distributed under the law of April 23, 1800, though the law of June, 1864, was in force at the time of such adjudication; that all the officers sharing in said captures have had a redistribution of prize-money for the same under the law of June, 1864, except Commander Gibson, who was at the time of said captures a lieutenant and executive officer of the ship in which he was serving, and as such seeks to have the benefits of redistribution extended to him. Commander Gibson was abroad at the time the said redistributions for the said prizes were made, and when he returned to the United States and applied to have the balance due him paid he found the Secretary of the Navy unable to afford the desired relief, as the fund from which the said redistributions had been made was exhausted. The amount claimed is about $970.

Your committee therefore return House bill No. 2648, with the recommendation that it do pass.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1011.

RIGHT OF WAY TO THE ANNAPOLIS AND BALTIMORE SHORT LINE RAILROAD COMPANY THROUGH THE GOVERNMENT FARM AT ANNAPOLIS, MD.

APRIL 12, 1882.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. TALBOTT, from the Committee on Naval Affairs, submitted the following

REPORT:

[To accompany bill H. R. 5802.]

The Committee on Naval Affairs, to whom was referred the bill (H. R. 5802) granting right of way to the Annapolis and Baltimore Short Line Railroad Company through the government farm connected with the Naval Academy at Annapolis, Md., submit the following report:

The said bill was referred to the honorable Secretary of the Navy, and his views thereupon requested. The bill was referred by him to a board of naval officers, who viewed the lands proposed to be granted to said railroad company, and whose views are contained in a communication to the Secretary of the Navy, and made a part of his report. The letter of the Secretary of the Navy is also submitted herewith.

Your committee, therefore, respectfully report back a substitute for the accompanying bill, with amendments, as recommended by the Secretary of the Navy and the board of naval officers, and recommend its passage.

NAVY DEPARTMENT,
Washington, March 23, 1882.

SIR: I have the honor to acknowledge the receipt of your communication of the 22d instant, inclosing a copy of bill (H. R. 4300) "granting the right of way to the Annapolis and Baltimore Short Line Railroad Company through the government farm, and to sell said railroad company a part of said government farm connected with the Naval Academy at Annapolis, Md."

In compliance with your request, I respectfully submit the following suggestion:

In lines 8 and 9 of the first section of the bill, omit the words "with a branch road across said farm to Washington City," and insert the words "to be located to the satisfaction of the Secretary of the Navy." This provision I deem to be important, as from the information I have received through a board of officers appointed by me to examine and report upon the proposed location of the railroad referred to, I am of the opinion that the public interest will not warrant the grant of a second right of way for a branch road across the government farm. A copy of the report of the board is herewith transmitted.

The amendments noted by the committee, to the second section of the bill, requiring the railroad company to pay for the ground upon which they propose to erect depot buildings, &c., and to erect and maintain a bridge over the carriage-way leading to the government hospital, meet with my approval.

I deem it essential that some limitation of time for the construction of the road should be inserted in the bill, as a precaution against such delays in the work as might,

by obstructing the grounds for an unreasonable length of time, be prejudicial to the interests of the Naval Academy. I therefore suggest for this purpose the following, as an additional section of the bill:

"SEC. 3. That the right of way and other privileges granted herein under the provisions contained in this act shall become inoperative and null and void, unless the said company shall, within the term of two years from the 1st of June, 1882, have so far advanced the construction of said road as to satisfy the Navy Department that said company is lawfully and successfully established, and that said road will be completed as proposed, within a reasonable time."

I see no objection to the proposed legislation should the bill be amended as suggested.

The bill is herewith returned, with proposed amendments noted.

Very respectfully,

WILLIAM H. HUNT,
Secretary of the Navy.

Hon. B. W. HARRIS,
Chairman Committee on Naval Affairs, House of Representatives.

UNITED STATES NAVAL ACADEMY,
Annapolis, Md., February 23, 1881.

SIR: In obedience to the department's order of the 20th instant, a copy of which is hereto annexed, marked A, the board met at the Naval Academy, Annapolis, Md., on the 22d instant, and has the honor to report that, in its judgment, the proposed bill to grant a right of way to the Annapolis and Baltimore Short Line Railroad Company through the "government farm," and to sell to said railroad company a part of said "government farm," should not meet with the approval of the department in its present form.

The board sees no objections to granting to the Annapolis and Baltimore Short Line Railroad Company a right of way for its main line, from Annapolis to Baltimore, through the "government farm," provided said line shall be located to the satisfaction of the naval authorities; but it can find no grounds to warrant it in recommending that said railroad company shall be granted a second right of way for a branch road across the said farm to Washington.

The ground that the Annapolis and Baltimore Short Line Railroad Company ask for a depot, workshops, &c., was purchased by the government from the governors of Saint John's College, and there is no reason why this land should be given away. The board sees no objections to selling said ground to said railroad company for its value.

That portion of the bill directing the Secretary of the Navy to sell to said railroad company so much of the government farm and appurtenances as will lie south and southwest of the main stem of said road, for a sum of money not less in amount than the original cost of said land per acre, ignores the fact that said land contains a large hospital, steam laundry, and gas works, steam-heating apparatus, stables, water-pipes, &c., all of which have been placed there at great cost by the government since said farm was purchased, and such a sale as is proposed by the bill would cause great loss to the government.

It is respectfully recommended that no bill granting a right of way through the government property, or granting any privileges to the Annapolis and Baltimore Short Line Railroad Company, shall be favored by the department until said company shall have so far advanced the construction of said road as to satisfy the department that said company is legitimately and successfully established, and that said road will be completed as proposed, and in a reasonable time.

And it is further recommended in event of said right of way being granted to said company, that said company shall be required to bridge in such manner as may be designated by the naval authorities, all roads connecting the Naval Academy with the naval hospital that may cross the line of said railroad at points that may be either above or below the grade of said railroad.

Hon. WILLIAM H. HUNT,
Secretary of the Navy, Navy Department, Washington, D. C.

OFFICE OF THE ADMIRAL,
Washington, D. C., March 22, 1882.

MY DEAR SIR: I received your letter with inclosed bill, and beg leave to answer it I have been several times approached on this subject by interested persons, asking me to recommend to the department to grant a right of way through the public grounds

at Annapolis, Md., which I have invariably refused to do. First, because I had no confidence in some of the persons interested in the scheme. Second, because I never believed it was the intention of these persons to build a road, as they pretend is their object.

That piece of property next to Saint John's College and north of the Academy was purchased by the United States Government with the intention of getting possession of all the property back of the creek and down to the river, so that the Naval Academy could have a good-sized drill-ground, which at present it has not.

As this piece of ground would become the terminus of the road, if built, it would interfere very much with the quietude so necessary to students. The constant running of locomotives night and day under the windows of the main building at the Academy would be almost fatal to the institution. The very object of purchasing the ground was that no structure should be erected that would in the least interfere with the Naval Academy.

As to the right of way through the government grounds, it is not necessary to enable those people to build a road if they really intend to do so. They could pass to the west of the hospital, which would enable the road to debouch at a point in the town where traffic could be more easily managed.

The projectors of this railroad have put forth the idea that it is to be a great avenue of traffic with Baltimore in winter, when Baltimore harbor is frozen over. In case that Annapolis should become a place of foreign traffic, ships would have to come up to the lower end of the Academy, where the ferryboat now runs, right under the windows of the main building, and you can imagine the pandemonium that would be established at a point where the most perfect quiet should prevail. I think the first consideration should be the Naval Academy and its necessities.

I have reason to suppose that the persons engineering this scheme have no capital with which to build such a road as they propose, and their object is to get hold of the land near the Naval Academy for other purposes. The reason why these people do not want to pass west of the hospital, which is the proper route, is because they will have to pay higher for the land, and they expect to get the government land for little or nothing.

In my opinion the scheme, if carried out, will be a great detriment to the Naval Academy, which should be kept isolated as much as possible.

I have given you my candid opinion in this matter, and am satisfied that every superintendent of the Naval Academy who studies its interests will agree with me.

I have the honor to remain, very respectfully, yours,

DAVID D. PORTER,
Admiral.

Hon. B. W. HARRIS, M. C.,
Chairman Naval Committee, House of Representatives.

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1012.

ALONZO GESNER.

APRIL 12, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STRAIT, from the Committee on the Public Lands, submitted the following

REPORT:

[To accompany bill H. R. 1367.]

The Committee on the Public Lands, to whom was referred the bill (H. R. 1367) for the relief of Alonzo Gesner, having had the same under consideration, report the same back with the recommendation that the bill do pass.

A bill identical with this (S. 53) has passed the Senate at the present session. The facts in relation thereto are set forth at length in the report of the Senate Committee on Public Lands (No. 53 of the present session), and your committee adopt said Senate report as a statement of the reasons why the bill should pass, viz:

It appears from the papers in this case that Alonzo Gesner, of Oregon, on September 6, 1876, entered into a contract, No. 251, with the United States surveyor-general of Oregon, to survey public lands in said State, described as follows, to wit:

Fourth standard parallel southwest, through ranges 20, 19, 18 east, to the intersection with the Des Chutes meridian; and also the exterior boundaries of townships 18, 19, 20 south, ranges 18, 19, 20 east, and townships 16, 17, 18, 19, 20 south, range 17 east; and also the subdivisional lines of townships 18, 19, 20 south, ranges 19, 20 east, and townships 18, 19 south, range 18 east, and townships 16, 17, 18 south, range 17 east. Willamette meridian, Oregon.

That on April 7, 1877, Alonzo Gesner, from his camp in the field on Bear Creek, Wasco County, Oregon, wrote to the United States surveyor-general of Oregon, calling his attention to the large settlement then being made in townships 16, 17, 18, 19, and 20 south, range 16 east, and that the settlers therein were desirous of the survey of the above-described lands. That these townships contained a large area of excellent and valuable agricultural lands, and also abounded in rich mineral deposits. That being on the ground, and in view of the great expense of transporting a surveying party to this remote distance and back, Alonzo Gesner asked the United States surveyor-general of Oregon that he be permitted to proceed at once to the survey of the townships named, and that they be added to his contract of September 6, 1876; and that, feeling assured of the compliance of the said United States surveyor-general with his said request, he further stated that he should proceed at once to the survey of the exterior and subdivisional lines of said townships, trusting to secure the approval of said United States surveyor-general thereto.

That on April 19, 1877, the bondsmen of said Alonzo Gesner gave their consent that said Gesner might survey the exterior and section lines of said townships 16, 17, 18, 19, 20 south, range 16 east, amounting to 54 miles and 3.09 chains of exterior lines, and 300 miles and 61.92 chains of section lines, and which, at the rate of $7 per mile for township and $6 per mile for section lines, amounted to $2,182.91. That on August 18, 1877, said surveys were authorized by said United States surveyor-general of Oregon, upon the condition that the consent of his bondsmen be obtained, and the United States surveyor-general, deeming it to be for the best interests of the government, asked the Commissioner of the General Land Office to approve the same. That on December 23, 1877, the United States surveyor-general for Oregon indorsed the account of said Alonzo Gesner to the Commissioner of the General Land Office as United States

deputy surveyor for his said work done under his said contract of September 6, 1876, and also with the permission of his bondsmen and with his approval. All of which the Commissioner of the General Land Office, on January 23, 1878, disallowed, for the reason that the same had not been included in the original contract of Alonzo Gesner, and which had been approved by the Commissioner. That the account for the work of said deputy surveyor was approved by the surveyor-general of Oregon on December 10, 1877, and forwarded to the Commissioner of the General Land Office, and is now of record in the United States Treasury Department. That the field notes of the said surveys were duly approved by the surveyor-general December 1, 1877.

That duplicate township plats of said surveys were duly made and filed in the United States local land offices at The Dalles and Lake View, Oreg., on December 20 and December 30, 1877, respectively. and copies thereof forwarded to the Commissioner of the General Land Office. That the said township plats have never been withdrawn from the local land offices, but that the same remain on file and of record in said offices; and that the lands so surveyed are, and have been since the filing of the plats, subject to entry as public lands under the laws of the United States. That said surveys amount to 54 miles 3 chains and 9 links of township lines, and 300 miles 61 chains and 92 links of section lines; and which at $7 per mile for township lines and $6 per mile for section lines, amounts to the sum of $2,182.91; and which amount is still unpaid and claimed as due said Alonzo Gesner on account of said surveys. That a bill for the payment of the amount due Alonzo Gester (S. 734) passed the Senate on June 19, 1878, (see Senate Journal, second session, Forty-fifth Congress, p. 779, June 19, 1878); and which bill was thereafter referred to the Committee on the Public Lands of the House, by it favorably considered, and by it ordered to be favorably reported to the House with a recommendation that it should pass, but which report failed to be made to the House in time to be acted upon during the Forty-fifth Congress. That the amount, as stated in said Senate bill No. 734, was $3,033.27; but that since the date of the introduction of the pending bill there has been paid of said amount the sum of $850.36 for the survey of two townships, in pursuance of the original contract and certain substitutions thereunder, leaving still unpaid the sum of $2,182.91 on account of said surveys.

We therefore recommend the passage of the bill, with an amendment in line 13 by striking out "ninety-three" and inserting *ninety-two*, to make the bill correspond to the actual survey.

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1013.

RELIEF OF SETTLERS ON RAILROAD LANDS.

APRIL 12, 1882.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. STRAIT, from the Committee on the Public Lands, submitted the following

REPORT:

[To accompany bill H. R. 5803.]

The Committee on the Public Lands, to whom was referred the bill (H. R. 4735) for the relief of settlers on the railroad lands, have had the same under consideration, and report the same back to the House with a substitute, the adoption and passage of which is recommended by the committee.

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1014.

SAN FRANCISCO LAND ASSOCIATION OF PHILADELPHIA.

APRIL 12, 1882.—Reported adversely, committed to the Committee of the Whole House on the state of the Union, and ordered to be printed.

Mr. T. M. RICE, from the Committee on the Public Lands, submitted the following

REPORT:

[To accompany bill H. R. 2603.]

The Committee on the Public Lands, to whom was submitted the bill (H. R. 2603) granting public lands for the relief of certain citizens of the United States, report:

This bill proposes relief to certain citizens, most of them residing in the city of Philadelphia, who are shareholders in a company under the laws of Pennsylvania, and who claim an interest in certain lands, amounting to about 10,000 acres, now included within the limits of the city of San Francisco, Cal.

At the date of the treaty between the United States and Mexico, by virtue of which the territory, now State of California, was ceded to the United States, these lands were known as the Dolores Mission lands, and it is claimed were, in 1846, granted by Pio Pico, acting governor of California, to one Santillon, a missionary priest of that mission. Afterwards said Santillon conveyed said land to James R. Bolton. The San Francisco Land Association of Philadelphia claim title by several mesne conveyances from Bolton.

By the treaty of Guadalupe Hidalgo, between the United States and Mexico, in 1848, the United States stipulated in its compact with Mexico to protect all prior grants and then existing property rights in the territory thus acquired; and in pursuance of that treaty, Congress by act of 1851, provided for the appointment of three commissioners to hear and determine the validity of all land titles claimed by private citizens, obtained prior to said act of treaty concessions.

It appears that the title in question was submitted to this board of commissioners by said Bolton—the then claimant—who decided the grant to be valid, and confirmed it by decree. Upon appeal by the United States to the circuit court of the United States for the district of California, the decree of the commissioners was affirmed; but the case was again appealed to the Supreme Court of the United States, when the decree of the said commissioners as affirmed by the circuit court was reversed, and by final judgment of the Supreme Court the said grant was rejected. (See case reported in 23 Howard, 341.) Since this decision the said lands have been treated by the government as part of the public domain, and as such have been sold and patented to purchasers.

The above decision of the Supreme Court was rendered at its Decem-

ber term, 1859, at which period the lands had, on account of their location, become valuable, estimated to be worth $40,000,000.

Upon the several hearings, above mentioned, both parties had opportunity and did make a full presentation of their respective claims; but it is now insisted upon by the San Francisco Land Association of Philadelphia, assignees of James R. Bolton, that they have discovered new evidence in support of the Santillon grant, and further, that by a change in the law and rulings of the courts as to the competency of certain witnesses, whose testimony on the former hearing was rejected as incompetent, such witnesses are now competent to testify. And it is further urged that in deciding this case the Supreme Court adopted new and erroneous rules contrary to former decisions and which have since been abandoned by the court. For these reasons it is now claimed by the present claimants that they are entitled to have said case retried, and therefore, in this bill ask Congress to relieve them from the bar of the statute of limitations by conferring upon the court the power to grant them a new trial. In other words the bill provides that "the district court for the northern district of California is authorized and required to have, and decide upon the merits of the claim of the San Francisco Land Association of Philadelphia," &c. To speak plainly, Congress is asked to direct the court to do that which now, by lapse of time, under the law it cannot do, and perhaps in the exercise of its sound judicial discretion it would not have done, had a motion for a rehearing, based upon the reasons here shown, been filed within the time prescribed by law.

Upon trial, anew, should the courts hold the grant invalid, the claimants, of course, still obtain nothing. On the other hand, should they recover, they ask an equivalent in other vacant lands belonging to the United States, equal to the value of the lands granted at the date of the decision by the Supreme Court in 1859.

This case was before the Forty-sixth Congress and referred to the Committee on Private Land Claims. That committee, in its report No. 694, report favorably, recommending, after great labor and a learned statement of law and fact, that it was due to justice and national honor that a new trial be granted.

Your committee are unable to concur in the view taken of this case by the said committee of the Forty-sixth Congress, or at least we are unable to affirm their conclusion. It is not germain to what we conceive to be the real and only question involved in this case; that we should make any review of the former trial, or that we should inquire whether the court, in its findings, opinion, or decree committed error or not; for our argument, it is sufficient that the court did enter up a final decree and judgment.

The question is, has Congress the jurisdiction to so far interfere with the powers of the courts as to order and direct a new trial. Courts, the Federal courts, may in their discretion set aside their findings and judgments, and grant new trials; they may do this as between private citizens, suitors at their forum, and they may likewise do this where the United States is a party (Warner *vs.* Norton, 20 How., 448; U. S. *vs.* White, 5 C. C., 38; U. S. *vs.* Keen, 1 McLean, 429; U. S. *vs.* Connor, 3 McLean, 573; U. S. *vs.* McComb, 5 McLean, 286; U. S. *vs.* Wanson, 1 Gallis., 5; U. S. *vs.* Gilbert., 2 Sum., 19; U. S. *vs.* Hulberstadt, Gilp., 262; U. S. *vs.* Beaty, Hemp., 487; U. S. *vs.* Houling, 1 Wall., jr., 127; R. S. 1878; § 726). Such has been the statute since 1789. But it is said Congress has recognized this right; and in cases where the courts could not act, granted new trials when it seemed probable that in justice had been done, either to the government or a private person. This is true,

and there are cases affirming such legislation to be constitutional and proper (Bradder *vs.* Brownfield, 2. W. & L., 271; Sampeyreac & Stewart *vs.* U. S., 7 Peters, 221). Upon a careful examination of the United States Digest, we find no other reported cases recognizing this doctrine. In the case of Bradder *v.* Brownfield, the supreme court of Pennsylvania say: "An act of assembly directing a judgment to be opened and the defendant let into a defense upon the plea of payment, is the exercise of a jurisdiction of a remedial character, partly legislative and partly judicial."

That case does clearly recognize the constitutional right of legislative bodies to interfere with the final judgment of the courts by granting to the losing party a new trial. But the case reported in 7 Peters, 221, *supra*, upon a careful examination, will be found to give but a very weak indorsement of this doctrine if any at all. Under an act of Congress passed in 1824, conferring jurisdiction upon the Federal courts in the State of Arkansas to have and determine Spanish land grant claims between the United states and claimants, and providing a right to the losing party to appeal from a final judgment in one year, one Sampeyreac instituted his action to recover certain lands claimed by the United States, but which he claimed title to by grant. The case was formally tried and judgment was rendered for the plaintiff, confirming Sampeyreac's grant. No appeal was taken. Afterwards, in perhaps about 1828, a pretended sale of the Sampeyreac title was made by deed to one Stewart, when it was discovered that Sampeyreac was a fictitious person, and that the grant to him was a forgery, and fraudulent. It was also developed upon investigation, that there were other claims of a similar character, and which by similar adjudications by the court had passed into judgment of confirmation. It was held upon investigation that since these titles had passed into judgments, and the period prescribed for an appeal having lapsed, that the power of the courts under the act of 1824, had ceased. Thereupon, in 1830, Congress passed another act conferring jurisdiction upon the court in Arkansas, "to review cases wherein it should appear to the court that jurisdiction was upon former trial assumed by fraud or in a case of forgery." Under this last act the United States instituted proceedings to review the Sampeyreac judgment, and against Sampeyreac and Stewart. Judgment for the plaintiff, from which Stewart appealed to the United States Supreme Court, where, in 1841, it was affirmed. In the course of its opinion, the court says in substance, this act (of 1830) simply extended the terms, and enlarged the jurisdiction conferred upon the courts by the act of 1824; that the act of 1830 is in no respect the exercise of judicial powers, it only organizes a tribunal to entertain certain judicial proceedings, and that the retrospective character of the act providing a remedy merely is not objectionable; that as Sampeyreac was a fictitious person, the decree of the court under the act of 1824 was a mere nullity, it gave no right to any one; that the title still remained in the United States, and the most that can be said is that the United States, omitting to appeal within the time limited by the act, the remedy thereby provided was gone, and the decree becomes final and conclusive as to such remedy. But the title being still in the United States, the act of 1830 provided a new remedy by extending the remedy provided in the act of 1824. Plaintiff was a fictitious person; there was a formal decree, but there was no party to it. The act of 1830 provided a new remedy which had not been exercised, and is therefore unobjectionable.

There is one other case in which the court holds "a judgment ren-

Again calling attention to Bradder, *vs.* Brownfield, *supra.*

This decision was rendered in 1841, but in subsequent cases a contrary doctrine has been announced with great clearness and by special mention reversing the doctrine declared in the above case of Bradder, *vs.* Brownfield, *supra*, we refer to De Castellux *vs.* Fairchilds 15 Penna., 18, and this case seems to us so conclusive of the principle under consideration that we give it entire.

The action was trespass. There was a verdict for plaintiff. Motion for a new trial, and motion overruled. The defendant took a writ of error to the supreme court, where the judgment was affirmed. At the next session of the legislature, in 1847, an act of assembly was passed reciting—

That a new trial shall be, and hereby is, granted and allowed, and directed to be granted and allowed by the court of common pleas, * * * and that the said case be proceded in to trial and judgment, with like effect, in all respects, as if the same had not been heretofore tried in said court, and passed upon on motion for a new trial. (Acts 1847, p. 405.)

Under this act the case was retried in the court of common pleas, judgment rendered, and case again taken to the supreme court.

The opinion was delivered by C. J. Gibson, July, 1850, as follows:

If anything is self evident in the structure of our government it is that the legislature has no power to grant a new trial, or to direct the court to order it, either before or after judgment. The power to order a new trial is judicial, but the power of the legislature is not judicial. It is limited to the making of laws, not to the exposition or execution of them. The functions of the several parts of the government are thoroughly separated and distinctly assigned to the principal branches of it—the legislative the executive, and the judiciary—which, within their respective departments, are equal and co-ordinate. Each derives its authority mediately and immediately from the people, and each is responsible mediately and immediately to the people for the exercise of it. When either shall have usurped the powers of one or both of its fellows, there will have been effected a revolution, not in the form of the government, but in its action. Then will there be a concentration of the powers of the government in a single branch of it, which, whatever may be the form of the constitution, will be a despotism—a government of unlimited, irresponsible, and arbitrary rule. It is idle to say the authority of each branch is defined and limited in the constitution if there be not an independent power able and willing to enforce the limitations.

Experience proves that it is thoughtlessly but habitually violated, and the sacrifice of individual rights is too remotely connected with the objects and contests of the masses to attract their attention. From its very position it is apparent that the conservative power is lodged with the judiciary, which in the exercise of its undoubted right is bound to meet every emergency, else causes would be decided, not only by the legislature, but sometimes without hearing or evidence. The mischief has not yet come to that, for the legislature has gone no further than to order a rehearing on the merits; but it is not more intolerable in principle to pronounce an arbitrary judgment against a suitor, than it is injurious in practice to deprive him of a judgment which is essentially his property, and to subject him to the vexation, risk, and expense of another contest.

It has become the duty of the court to temporize no longer, but to resist temperately, though firmly, any invasion of its province, whether great or small. We are bound to say, therefore, that Bradder *vs.* Brownfield is not law, and that it was erroneously decided. As the act before us is null the plaintiff ought to have been permitted to proceed on his judgment.

In conclusion your committee are of the opinion that the San Francisco Land Grant Association are not entitled to the relief asked for in this bill, and therefore here return the same with an unfavorable report, and respectfully ask to be discharged from its further consideration.

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47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1015.

REPAIR OF DAMAGES TO PROPERTY OF PRIVATE PERSONS AT HOT SPRINGS, ARK.

APRIL 12, 1882.—Referred to the Committee on Appropriations and ordered to be printed.

Mr. CRAVENS, from the Committee on the Public Lands, submitted the following

REPORT:

The Committee on the Public Lands, to whom was referred the message of the President transmitting a communication from the Secretary of the Interior, and accompanying papers, in which he recommends that authority be given for the payment of certain damages which unexpectedly occurred to the property of private persons on the government reservation at Hot Springs, Arkansas, in consequence of work performed under the direction of the superintendent in the performance of his duty, report the same back, and ask that it be referred to the Committee on Appropriations for consideration. The Secretary of the Interior recommends that authority be given to make payment out of the revenues of the reservation permanently appropriated to other uses.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1016

THE MARYLAND AND DELAWARE FREE SHIP CANAL, &c.

APRIL 12, 1882.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. HOBLITZELL, from the Committee on Railways and Canals, submitted the following

REPORT:

[To accompany bill H. R. 4445.]

The Committee on Railways and Canals, to whom was referred the bill (H. R. 4445) to provide for the construction of the Maryland and Delaware Free Ship Canal, as a means of military and naval defense, and for commercial purposes, having carefully considered the same, respectfully submit the following report:

The committee find ample authority for assuming that the government is committed beyond question to the construction of works of internal improvement in aid of inter-State commerce. Early in the history of the country, when wagon roads and canals were the only means for conveyance of products seeking either a home or a foreign market, great interest was manifested by our public men in the proper development of means of intercourse between the States; not solely for the material results necessarily to flow in addition to the wealth of the country, but with the broader and more patriotic object of cementing the ties of our Union, in a network of money interests stronger than steel or sentiment, indissolubly.

Accordingly, after a bitter discussion of the question of State-rights, growing out of such projected improvements, the government entered upon its policy of beginning the construction of the Cumberland and National Turnpike road, intended to open up communication between the Atlantic seaboard and the Ohio River, and through the territory of the great State of Ohio. Since that period the government has expended hundreds of millions of dollars in the extension and development of its policy of fostering and encouraging home productions in the development of our commercial power by deepening of the channels of our harbors and navigable rivers, the building of railroads, the construction of jetties, and in the laying out and building of other transportation highways. And notwithstanding the railway system of the United States has largely superseded the earlier modes of conveyance, yet whenever such assistance will shorten distances, save time, and introduce a regulative power over the rates of transportation charges, such projects command the wise counsel and energetic action of our legislators.

President Monroe, in his first annual message, said:

When we consider the vast extent of territory within the United States, the great amount and value of its productions, the connection of its parts and other circumstances on which their prosperity and happiness depend, we cannot fail to entertain a

high sense of the advantage to be derived from the facility which may be afforded in the intercourse between them by means of good roads and canals. Never did a country of such vast extent offer equal inducements to improvements of this kind, nor ever were consequences of such magnitude involved in them.

He had previously announced, in his inaugural address to the people, that—

By thus facilitating the intercourse between the States, we shall add much to the convenience and comfort of our fellow-citizens; much to the ornament of the country; and, what is of greater importance, we shall shorten distances, and by making each part more accessible to and dependent upon each other, we shall bind the Union more closely together. Nature has done so much for us by intersecting the country with so many great rivers, bays, and lakes, approaching from distant points so near to each other, that the inducement to complete the work seems to be peculiarly strong.

And your committee, believing such aid to be wholly within the provisions of the Constitution, as evidenced by the practice of a century, refrain from touching upon the question of constitutional power.

However, the committee are of the opinion that to entitle any such project to assistance from the government, it should mount up in importance to be a work of public necessity when only it can be said to attain to the dignity and character of a national work; and measured by this rule, your committee have been guided in the recommendation of the measure under consideration.

The object of this bill is to construct a water-way across the peninsula of Maryland and Delaware, uniting the waters of the great Chesapeake and Delaware Bays. The dimensions of the proposed canal are to be 100 feet at the bottom 26 feet below mean tide, with a width of 178 feet at the surface at low ebb tide, with locks whose chambers are to be 600 by 60 feet, and capable, when completed, of floating vessels drawing 22½ to 23 feet of water.

Two government surveys ordered by Congress have been made—one by Maj. W. N. Hutton, formerly of the United States Engineer Corps, and one by Capt. Thomas Turtle, of said corps, under the direction of Col. William P. Craighill, full reports of which several surveys are before Congress, and the entire feasibility of such a water-way is definitely determined. Of the various routes examined and estimated, a choice will most likely be made from either of two northernmost routes by way of the Sassafras or the Black River, or the southernmost route by way of the Choptank River, the minimum cost of construction being $8,000,000, and the maximum $16,000,000, as the board of engineers provided for in the bill shall decide to locate the route.

The construction of this work will, practically speaking, bring the Atlantic Ocean inland 200 miles nearer to the port of Baltimore, and save in time of travel from twenty-two to twenty-four hours to all foreign and coast-wise traffic, with its saving of cost in the price of fuel and insurance, reducing freight rates to be charged.

Baltimore already enjoys, by reason of her geographical position, the advantage of being nearly 200 miles nearer to Chicago, Saint Louis, and other leading *entrepôts* of the West, than New York, and, if this canal is built, will place this route for foreign trade 400 miles nearer for all the great productions of this Hesperides of America.

The national character of this work is manifest: 1st, from the incalculable commercial advantages to flow thereout, and, 2d, from its vital importance as a means of national defense; both of which will be briefly considered.

A glance at the map shows a tier of States and Territories comprising the Ohio and Mississippi Valleys, which are destined in a brief period

of time to become the bread-producing sources of the world. Illinois, Wisconsin, Minnesota, Iowa, Missouri, Kansas, Nebraska, Dakota, Texas, Arkansas, Kentucky, Tennessee, Georgia, Alabama, Mississippi, and Louisiana, with their hundred populous cities, the receiving and distributing depots of this vast section of wealthy producers, are directly or indirectly interested in the completion of this great work of internal improvement. In the aggregate they show of uncultivated acreage of farm lands the sum of 151,686,230 acres, inviting the activity of the commercial and industrial forces underlying the energies of the Anglo-Saxon race; in the same remarkable development of the agricultural wealth of this rich portion of our country—and statistics demonstrate that our manufacturers keep pace with its broad stride of progress—a development which is pronounced by Joseph Nimmo, esq., chief of the Bureau of Statistics, "unparalleled in the history of this or any other country." We have taken a long step toward the goal of our ambition in becoming the producers of food for the civilized world—a condition that will be absolutely realized when, by wisely availing ourselves of these natural advantages of our country for cheapening transportation rates, by the shortening of distances and economizing of time, we render foreign grain products unable to compete, in the markets of the world, with the rich fruits of our teeming soil. The States of Illinois, Iowa, Wisconsin, Minnesota, Missouri, Nebraska, Kansas, Arkansas, Texas, and the Territory of Dakota, or that portion alone lying west of the Mississippi River, with a population of 12,164,312 in 1880, as reported by the census, produced of the four leading cereals as follows:

	Bushels.
Wheat	203,555,981
Corn	1,078,266,684
Oats	214,824,800
Barley	15,788,246

A grand total of 1,511,435,711 bushels, while the whole country produced of the same cereals:

	Bushels.
Wheat	459,479,505
Corn	1,754,861,535
Oats	407,856,999
Barley	44,113,459
Or a grand total of	2,666,313,534

Demonstrating in eloquent terms the importance to the whole country of this magnificent development—the fruit of our inter-State communication by rail and water-way—and inviting the wisdom of legislation to afford greater aid to commerce, in the encouragement, promotion, and extension of the power of production in this direction. Of this splendid aggregate of wealth, the sum of $332,802,768 constituted the value of the breadstuffs, provisions, tallow, and live animals that contributed to swell the total of exports for the year 1881, estimated to be $883,925,947, or an increase, over that of 1871 of $455,527,039, or 79.5 per cent. of that increase, chiefly the products of this growing section.

By the report of the Railroad Commissioner it is confidently predicted that by December 31, 1882, there will have been added to the mileage of the railroad system 15,886 miles, or one-sixth of the present aggregate of railroad construction, estimated in Poor's Manual to be 93,669.50 miles, reaching rich areas of producing country not hitherto drained by these rail rivers of commerce, but of sufficient importance to tempt the large investment of capital required to inclose it within the embrace of trade enterprise, necessarily augmenting the production of the country, increasing its population, and magnifying the sources of its wealth.

It is of the highest order of statesmanship to provide for the wants of future progress, and the rapid and wonderful development of the past decade admonishes us to prepare against the inevitable outgrowth of production, and the incapacity of any one Atlantic seaport, possessed of adequate connections with the West, to discharge its excess of values to a foreign market.

Already large-minded men, educated in the necessities and intricacies of commerce, are expressing grave anxiety when that condition of our production shall arrive, when our seaports will be glutted with the treasures of our labor, and they are looking to this Congress to do something for the relief of trade. The boards of trade of Baltimore, of Kansas City, and the chamber of commerce of Cincinnati have passed resolutions recommending in the strongest terms the construction of this canal as an aid to inter-State communication, and urged it upon their representative men, while the merchants and the press, both in the West and East alike, commend it as worthy of the careful and deliberate consideration of this body. It is confidently believed that by cheapening the rate of freight charges, it will go far towards, if not entirely, regulating transportation rates for railroads; for when completed as a free highway the laws of competition, and of supply and demand, will be practically untrammelled in their action and regulating power, offering to a large degree, a solution to the great railroad problem of the age; one of the most important questions agitating the public mind. In addition, the saving of freights to the producers of wealth, would in a very short period of time, pay for the cost of its construction; the following table, by way of illustration, offering food for reflection upon this vital point:

Statement showing amount saved to the producers of grain and provisions in six States by the proposed Chesapeake and Delaware Ship Canal.

States.	Amount of wheat produced in the year 1880.	Home consumption for food and for seeding.	Balance available for export.	Amount saved to the producer at a reduction of 1¼ cents per bushel in ocean freight.
	Bushels.	*Bushels.*	*Bushels.*	
Ohio	49, 790, 000	18, 655, 000	31, 135, 000	$467, 025
Indiana	49, 766, 000	13, 344, 000	36, 422, 000	54[illegible]830
Illinois	60, 958, 000	18, 975, 000	41, 983, 000	629, 745
Missouri	57, 766, 000	13, 100, 000	44, 666, 000	669, 990
Iowa	33, 178, 000	12, 100, 000	21, 078, 000	316, 170
Kansas	20, 336, 000	7, 550, 000	12, 786, 000	191, 799
Total	271, 794, 000	83, 724, 000	188, 070, 000	2, 821, 059
The amount of corn exported in 1880 was 115,826,321				1, 737, 394
615,351 tons provisions are exported, which, at 50 cents per ton, amounts to				307, 675
Total amount that could be saved annually				4, 866, 128

Wheat exported in 1880 was 144,483,007 bushels; flour exported in 1880 was 6,828,421 barrels; total in bushels is 173,593,796.

This showing comprises but a single chapter in the volume of beneficent commercial results to flow from the building of the Maryland and

Delaware Canal, and shows only the saving to producers on the east-bound traffic; to which may be added the saving to the whole country of consumers of domestic merchandise constituting the west-bound traffic, by the cheapened cost of manufactures, in the saving obtained in the cost of bituminous coal to the manufacturing States, as well as those articles of imported merchandise that swell the body of the same stream of trade—infusing its rich benefits throughout every section as the arterial system the human body.

Col. Wm. P. Craighill commenting upon the canal in his report to the Chief of Engineers of the United States, says:

The importance of the canal becomes more obvious when we consider not so much its usefulness to Baltimore locally, as to Baltimore the outlet of so many States of the Great West. The canal would shorten distances not only for vessels crossing the ocean but also for coasters. Baltimore is interested in thus having a better connection with eastern and northern ports. The advantage is reciprocal.

And Joseph Nimmo, chief of the Bureau of Statistics, in an able article upon our commercial future, recently published, refers to the proposed ship-canal in the following language:

I view the project somewhat in the following light. The Baltimore and Ohio Railroad and the other railroads terminating in Baltimore, are great rivers of commerce reaching the seaboard at this point; the commerce over these lines is much larger than that which ever moved upon the Mississippi River. Now, the proposed canal may be regarded as the mouth of all these streams of commerce which have their confluence at Baltimore. And the success of the Eads jetties at the mouth of the Mississippi River has demonstrated the fact that it is a good thing to improve the mouth of a great river.

As a means of national defense, also, its construction is of vital importance, furnishing the key to Washington, Baltimore, Philadelphia, New York, Norfolk, and other important cities in case of war; enabling our government, by the shortest possible route and the greatest saving of time, to concentrate the combined war power of the Norfolk, Washington, and League Island navy-yards, either in the Chesapeake, the Delaware, the Elizabeth, the Patapsco, or the Potomac waters, for the protection of those now exposed positions; it being the judgment of military men that a hostile fleet upon our coast with the Delaware breakwater for its rendezvous, and the Delaware for a refuge would subject all of those prominent cities to the mercy of such a maritime power. On the other hand, the protection of the breakwater at Lewes would prove the main defense of New York, which then could only be attacked by sea, by a fleet having a rendezvous at Newport.

It is claimed as a matter of history that General Washington regretted the absence of such an improvement during the Revolutionary war, remarking that it would have brought a crowning victory out of the hard-fought battle of Brandywine, and enabled him to have invested Cornwallis at Yorktown without dread of the fleet of Sir Guy Carleton. In the war of 1812 and 1814 the disgraceful capture and burning of the Capitol of the nation would not have been attempted, or, if attempted, could not have been accomplished. In the late war it would have saved to the government over fifty millions of dollars, in the transportation of troops and munitions of war; and the armaments against the Peninsula and the North Carolina sounds, which had to be fitted out at Annapolis, could have been more easily equipped at Philadelphia, and at a great reduction of cost.

Col. William P. Craighill, of the United States Engineer Corps, in forwarding the report of Major Hutton, says:

No argument is necessary to show the great value, in time of war with a maritime power, of such an interior line of communication between the great Chesapeake and Delaware bays, and their tributary streams, as this canal would be.

In the judgment of the committee these considerations demand the construction of this great work, as one of public necessity, and the committee deem the time now most opportune when the unexpended balance of over a hundred millions of dollars constitutes a surplus in the Treasury, the rich tribute to the revenues of the country, and a balance only made possible by the agricultural and commercial interests asking the passage of this measure.

Your committee report back the bill with the recommendation that it pass, with the accompanying amendment.

VIEWS OF THE MINORITY:

The minority of the Committee on Railways and Canals dissent from the argument and conclusions of the majority report on the bill (H. R. 4445) "to provide for the construction of the Maryland and Delaware Free Ship Canal as a means of military and naval defense, and for commercial purposes."

While recognizing the importance which such a work might assume as a means toward national defense in time of war, the minority deem it unwise and inexpedient at this time for the government to enter upon an enterprise of such magnitnde and costing so much; and therefore oppose the passage of the bill.

AMOS TOWNSEND.
J. W. DWIGHT.

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1017.

CHINESE IMMIGRATION.

APRIL 12, 1882.—Referred to the House Calendar and ordered to be printed.

Mr. PAGE, from the Committee on Education and Labor, submitted the following

REPORT:

[To accompany bill H. R. 5804.]

Your committee, in view of the recent treaty and all previous legislation by Congress, deem it unnecessary to enter at large upon the discussion of the necessity of the passage of some act restricting Chinese immigration. Suffice it to say that the national conventions of both political parties for the last eight years have passed resolutions condemning the policy of Chinese immigration. The States of the Pacific coast are a unit practically upon the subject, and at a recent election in California when a vote upon this question was submitted to the voters of that State only about 800 votes were cast for it out of a total vote of 162,000.

It is an undisputed fact that there are over 100,000 Chinese in the State of California; that they are mostly coolies or Chinese laborers who were brought here under a contract for a term of years by one of the six Chinese companies; that their labor is controlled by the companies above referred to, and that their coming here was not voluntary, and many are detained here until their contract term expires.

They monopolize many of the mercantile industries of the Pacific coast to the detriment of the better class. They take the places of the poor laboring classes who are compelled to compete with them or starve. This they cannot do for the reason that the Chinese bring no families, have no children to support or educate, contribute nothing to the support of the government, to the building of churches and school houses, assume no responsibilities, and could not be called upon to bear arms for the defense of the State or the nation when in danger of foreign invasion. They have no desire to assimilate with our people, and have been and always will be a separate and distinctive race. Their labor is brought into competition with our citizens, and your committee in conclusion beg leave to refer to and adopt as a part of this report a portion of the letter of acceptance of the late President Garfield upon this subject. He said:

> The recent movement of the Chinese to our Pacific coast partakes but little of the qualities of such immigration, either in its purposes or its results. It is too much like an importation to be welcomed without restriction; too much like an invasion to be looked upon without solicitude. We cannot consent to allow any form of servile labor to be introduced among us under the guise of immigration. Recognizing the gravity of this subject the present administration, supported by Congress, has sent to China a commission of distinguished citizens for the purpose of securing such a modification of the existing treaty as will prevent the evils likely to arise from the present situation. It is confidently believed that these diplomatic negotiations will be successful

without the laws of commercial intercourse between the two powers which promises a great increase of reciprocal trade and the enlargement of our markets. Should these efforts fail it will be the duty of Congress to mitigate the evils already felt and prevent their increase by such restrictions as without violence or injustice will place upon a sure foundation the peace of our communities and the freedom and dignity of labor.

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CHINESE IMMIGRATION.

APRIL 14, 1882.—Referred to the House Calendar and ordered to be printed.

Mr. WILLIS, from the Committee on Education and Labor, submitted the following as the

VIEWS OF THE MINORITY:

[To accompany bill H. R. 5804.]

The undersigned, members of the Committee on Education and Labor, to whom were referred sundry bills for the suspension of Chinese immigration, beg leave, in connection with the bill reported by the majority of the committee, to submit the following:

During the present Congress numerous bills have been introduced in both of its branches to execute the stipulations of the late treaty touching Chinese immigration. After mature consideration the committees of the two houses agreed upon bills which, while differing in their details, were almost identical in substance. The Senate committee fixed the period of suspension at twenty years, while this committee thought that twenty-five years would be reasonable. The necessity for identification and registration was recognized by both bills, and the machinery for that purpose was provided for by both.

After an able and exhaustive debate the Senate bill was passed.

This committee, being desirous of securing prompt action upon so important a subject, recommended to the House the substitution of the Senate for its own bill, then on the Calendar. After the most thorough consideration by the House, the Senate bill, on the 24th day of March, was passed by a vote of 167 yeas to 66 nays. Upon the 4th of April, 1882, the last day authorized by the Constitution, the President returned the bill to the Senate with his objections to its passage, and, being there reconsidered and not receiving the necessary two-thirds majority, it failed to become a law.

Immediately thereafter three bills were introduced in the House upon the same subject. The first of these (H. R. 5667), introduced by a member of this committee (Mr. Page), is the vetoed Senate bill, amended by the substitution of "ten" for "twenty" years. The second bill (H. R. 5668), also introduced by a member of this committee (Mr. Willis), is the bill which was on the House Calendar, amended by substituting the word "fifteen" for "twenty-five" years. The third bill (H. R. 5670), introduced by Mr. Berry, is the vetoed Senate bill, amended by substituting "sixteen" for "twenty" years.

The bill which the committee, by a majority vote, have instructed Mr. Page to introduce differs in several material points from all three of the bills mentioned. If the bill reported would, in the House, be open to debate and amendment, we would be content to avail ourselves of the opportunity then afforded to present our views, and to offer such a bill as we think should be and can be passed. The committee, however,

have given instructions to suspend the rules and pass the bill as it passed the majority of the committee.

As, therefore, there will be no opportunity to amend the bill, or to explain our position, we have deemed it proper to enter our objections to the refusal on the part of the committee to permit us to have a vote, without debate, upon a bill which we believe will give relief from the evils so justly complained of. As we represented the majority who voted in favor of the vetoed bill, we considered that our proposition to let that majority have an opportunity to vote upon some measure which more fully met with their approbation than the bill reported was not unreasonable. We did not desire or ask for debate upon our substitute. We wanted only a vote.

The bill which we present fixes the period of suspension at fifteen years, and retains the system of identification and registration. We doubt whether any suspension less than fifteen years will meet the urgent demands of the situation. All the interests of the people of the Pacific coast—material, political, social, and religious—are involved in the prompt and proper solution of this question. The objections to the Chinese by those people, and by all who have studied the subject, rest upon undisputed and indisputable facts: That they come to this country without families—wives or children—and without the intention to make it their permanent residence; that they are packed together like sardines in a box; that they have reduced the cost of living to a minimum; that they retain their distinctive peculiarities and characteristics, refusing to assimilate themselves to our institutions, and remaining a separate and distinct class, intrenched behind immovable prejudices; that their ignorance or disregard of sanitary laws, as evidenced in their habits of life, breeds disease, pestilence, and death; that their claim of superiority as to religion and civilization, destroys all hope of their improvement from contact with our institutions; these are the known and undenied facts in the problem of Chinese immigration. It is equally well known that workingmen of other nationalities cannot compete with the Chinese, except by a surrender of home, school and church, together with decent clothing, living, and other appliances of personal civilization.

Unwilling to yield to the inroads and encroachments of a race which overthrows the fundamental ideas and institutions of our society and government, and which drives from their homes their own worthy laboringmen, the people of the invaded States have for twelve years made their appeal to Congress for relief. The hope of securing that relief has hushed the voice and stayed the hand of violence. The indignant excitement born of the strange and burdensome conditions imposed by a class of immigrants self-determined upon alien, sordid, and unrepublican customs, has been held in praiseworthy restraint. It has not been believed—it is not now believed—that the just, well-founded, and almost unanimous demand of four sovereign States will be disregarded. Will a bill for ten years meet that demand? Will it not be accepted by the Chinese as a yielding to what they claim to be a temporary excitement and not an authoritative expression against their coming? Will so short a period of suspension restore the social and industrious interests of those States to their safe and normal conditions? Will these long-suffering and patient communities accept this bill as the finality—the accomplishment of their years of urgent appeal and hopeful waiting? We do not think so. We have before us the proceedings of innumerable mass-meetings, which voice the unanimous opinion that even twenty years was not long enough. We also have before us a statement made by

Hon. John F. Swift, one of the three commissioners who negotiated the treaty on the part of the United States, and who was more thoroughly informed upon the subject of Chinese immigration than either of the others. Mr. Swift says:

The treaty provided that the suspension shall be "reasonable," leaving the scope of the word entirely for Congress to determine. To determine what is a "reasonable" suspension it must be measured by the object to be accomplished. It is agreed that the residence of a great body of Chinese laborers in our midst is an evil, and the Chinese Government have consented that we may, without giving offense, abate and remove that evil. It follows that whatever is necessary to produce the result may be done. I think that twenty years is the very shortest period in which the evil can be brought under control. It must be remembered that we have 100,000 Chinese among us now, who, under the law, are to stay as long as they please. If they were to be sent away at once, and no more to come for ten years, it would be quite different. But they are to stay. It follows that, if we suspend immigration for ten years only, we would have from 50,000 to 60,000 here at the expiration of the act, say ten years hence, to form a nucleus for more to come to. So that at the end of the ten years and before an extension of the act or renewal of it could possibly be obtained from Congress, 100,000 could, and most likely would, be poured in from China. Ten years' suspension will do us no good at all, and would be actually worse than nothing. For my part I would rather have no act passed at all than one suspending Chinese immigration for ten years only. It would only keep us in a doubtful state of turmoil and trouble and do no good. If we are to have Chinese and nothing else it is better to know it at once so that we can either move out of the country or adapt ourselves to that form of society.

Mr. Swift was appointed on the treaty commission as the representative of the anti-Chinese sentiment. He has studied the subject in all its bearings; he knows better than we do what legislation is needed by his people, and when he declares that "ten years' suspension will do no good at all and would be actually worse than nothing," we are constrained to heed his words and accept his conclusions.

And why should we not pass a bill for fifteen years' suspension? Is any one authorized to say that a bill for that period would invoke another veto? While such a possibility should not be here discussed, and certainly ought not to control our deliberations, yet we may state that unless the Executive is opposed to any legislation whatever upon the subject, we do not think that such a result is to be expected. We are constrained to believe that when the *principle* of the bill is not denied, mutual concessions as to its details may be hoped for.

The House, by a vote of over two-thirds, passed a bill for twenty years, and by a majority of 31, in a total vote of 231, rejected an amendment for ten years' suspension. The Senate, upon both these propositions, voted the same way. If it is believed by the friends of the bill reported that ten years will be unobjectionable, may we not reasonably hope that fifteen years will be equally unobjectionable, inasmuch as it is a compromise between the period—ten years—rejected by the legislative department, and the period—twenty years—rejected by the executive department.

But waiving any question of compromise or courtesy, we think a brief review of the circumstances under which the last treaty was concluded, as well as its phraseology and the evidence presented by the accompanying papers of the treaty, will show that the period we insist upon is legal and reasonable.

Why and when was the treaty made? It was made upon repeated demands of the Representatives of the people in different Congresses. In 1869 the Forty-first Congress made an effort to secure restrictive legislation. In the Forty-fourth Congress a joint resolution was passed calling upon the President of the United States to "open negotiations with the Chinese Government for the purpose of restricting the treaty to

commercial purposes." At the second session of the same Congress another joint resolution was passed requesting the President to present to the Chinese Government an additional article to the treaty of July 28, 1868, reserving mutually to the two governments the right to regulate, restrict, or *prevent* immigration to their respective countries. In the Forty-fifth and Forty-sixth Congresses, several resolutions were introduced to the same effect. All of these resolutions call for the absolute prohibition and not simply the "suspension" of Chinese immigration. The Government of China, therefore, for over ten years has known the desire and purpose of this government to prevent immigration. The desire of this government was further, but not more clearly, indicated by the passage of the "fifteen passenger bill." The policy and necessity of restriction were announced by President Hayes in his veto of that bill. Still later came the appointment of a commission to negotiate a new treaty for the express purpose of limiting or prohibiting immigration.

With a knowledge of these facts will it be said that the Chinese Government did not comprehend the object of this new treaty? If there could be any doubt upon this subject, it would be dispelled by the briefest examination of the contemporaneous official history of the treaty.

Our commissioners in stating the purpose of their mission to the commissioners of China, distinctly say, "The Government of the United States feels justified in asking that it shall be allowed to judge for itself to what extent the immigration of Chinese labor is useful and advantageous, and that whenever at particular times or particular places it feels that its social or industrial interests require a limitation or prohibition of such immigration, it shall have the authority to regulate it as is most consonant with those interests."

In their reply to this, the Chinese commissioners intimated that they were unwilling to negotiate "contrary to the stipulations of the Burlingame treaty," but that they would consent to enter upon negotiations similar to those proposed by Mr. Seward, "to prohibit the four classes of cooly laborers, criminals, prostitutes, and diseased persons." They further suggested that this effort to secure a new treaty was instigated by the "rabble" of California. To this our commissioners indignantly replied:

> We are speaking for the Government of the United States, and we represent in all that we may say the grave, well-considered resolution of that government, and that while we approach you in the most amicable spirit, and will give the most respectful attention to any views you may submit to our consideration, we cannot in any discussion accept as satisfactory language which separates the Government of the United States from its people, or claims the right on the part of the Chinese Government to question the sincerity of any communication which we may make in its behalf.

And they say in the same interview:

> As an impression may have been made upon you by designing men, for mischievous purposes, that the Government of the United States does not represent the wishes of the American people, we would call to the attention of your excellencies that the people of the United States are at the present moment preparing for the periodical election of their President. As you are well aware, it is the habit on such occasions for both of the great parties of the country to declare what policy they think the interest of the country requires, and we have the honor to submit for your consideration the declarations of their opinions on the subject of Chinese immigration which they have respectively put before the world.
>
> The Chinese commissioners replied: "No one has influenced us in this matter. We had not been biased by what we have heard."
>
> Mr. Trescot continued: Your excellencies are also pleased to say to us, "Since your excellencies desire to discuss this business further with us, we are ready to discuss further the propositions of Mr. Seward." If it is the desire of your excellencies to discuss these propositions, we will do so at the proper time, but we feel it best to inform your excellencies that these propositions in no wise represent the wish or purpose of

the United States Government, and that the appointment of a new minister and our presence here with full powers to negotiate ought to be to you sufficient evidence of what value you should attach to such representations. We are entirely unaware of any authority or approval given by the Government of the United States to the proposal submitted on his own responsibility by Mr. Seward to the Chinese Government.

The United States commissioners then restate the objects of their mission:

What we are instructed to say to you is, that the Government of the United States thinks it is entitled to treat this question as its own most important interest demands; that from our past relations, and the advantages we have derived, you may feel assured that such immigration would not be limited or prohibited unless it threatened serious evils, and that if it does, then we expect from the Chinese Government a due consideration of the difficulties it imposes.

The Government of the United States thinks that it ought to have the right to decide to what extent and under what circumstances that immigration is wholesome, and to stop it when it becomes injurious. Its most solemn duty to its own citizens will not allow it to forego the exercise of that right. It therefore asks you to consent to such a modification of what you consider your treaty rights under the Burlingame treaty as will enable it to discharge that duty without raising questions which might disturb the friendly relations of the two countries.

Did our commissioners fail in the accomplishment of the objects for which they were sent? Is our legislation upon this subject to be determined by our own judgment or that of China? Let us look into these negotiations further and ascertain.

In the memorandum of the Chinese commissioners, in reply to the project of a new treaty which the United States commissioners had furnished on the 13th October, 1880, which contained the words, "regulate, limit, suspend or prohibit," we find the statement—

At the moment, we are only prepared to negotiate for a mode of limitation, having in mind the interests of both governments. We are entirely ready to negotiate most carefully with your excellencies to the end that a limitation, either in point of time or of numbers, may be filed upon the emigration of Chinese laborers to the United States.

Subsequently Mr. Trescot, our commissioner, asserted—

The right to prevent immigration, without the use of such means as the Government of the United States might deem judicious and necessary to enforce the prevention, was scarcely worth considering.

Again, in the reply of the United States commissioners to a project of a treaty submitted by China, they submit a counter project:

1. The United States commissioners are willing to consult the wishes of the Chinese Government in preserving the principle of free intercourse between the people of the two countries as established by existing treaties, provided that the right of the United States Government to use its discretion in guarding against any possible evils of immigration of Chinese laborers is distinctly recognized. Therefore, if such concession removes all difficulty on the part of the Chinese commissioners (but only in that case), the United States commissioners will agree to remove the word "prohibit" from their article, and to use the words "regulate, limit, or suspend."

The Chinese commissioners have in their project explicitly recognized the right of the United States Government to use some discretion, and have proposed a limitation as to time and number. This is the right to "regulate, limit, or suspend," but it is accompanied in the project by conditions which cannot be accepted. The United States commissioners think that the Chinese Government ought to assume that this right will be exercised by the United States Government in a friendly and judicious manner, but it would be entirely useless to the United States Government without the power of using it when and how, in the judgment of the government, it ought to be used. Consultation and conference between the two governments upon every occasion when it might be necessary, or upon every detail in the method of its use, would be so inconvenient as almost to be impossible.

The final communication of our commissioners is a review of the whole negotiation, and clearly sets forth the discretion we have. They say:

There is not in the treaty any language which modifies this concession, and there was not, as we think, the slightest intention on the part of the Chinese commissioners to diminish the full force of the discretion given to the United States.

There were one or two minor points upon which we would have preferred our own language. For instance, we wished in Article I to say "Chinese laborers should be protected against any abuse or maltreatment," instead of "should not be subject to any abuse or maltreatment"; but this latter phrase had been used in the treaty with Great Britain, and, although we thought it weaker than the form we proposed, we did not think it worth while to insist upon our preference in view of the concession of the principle which we think securely established that the Government of the United States had the power to regulate, limit, or suspend, without conditions, Chinese labor immigration when deemed injurious to the interests of its citizens.

If the commissioners, at the time the treaty was concluded, were of opinion that it authorized the Government of the United States to "regulate, limit, or suspend, *without conditions*, Chinese labor immigration," why should we doubt or deny that power now? We think therefore that sole discretion as to the number of years of suspension is vested in our government. As confirmatory of this view we call attention to a recent opinion of one of our commissioners (Mr. Swift):

On being asked what the Chinese Government, in his opinion, would think of twenty years' suspension, he (Swift) said that he had no doubt they would be perfectly satisfied with it. That during the negotiation of the treaty, the United States commissioners asked the Chinese what would be the result if 100,000 laborers from another country should come to the capital (Peking) and enter into competition with the common people in the struggle for a living, and they admitted that it would lead to trouble and disorders of the most serious nature, and that such a thing could not be allowed under any circumstances. It was not to be thought of.

If, then, we have the clear right to suspend for fifteen years, why should we not exercise it? Especially should we be constrained to do so when we are informed and believe that a shorter period will not bring either peace or protection to the disturbed communities.

There are one or two minor objections to the bill as reported, but if the period of suspension were put at fifteen years we would not insist upon these. We doubt the propriety of striking out the section which imposed fine and imprisonment upon Chinese unlawfully in our midst. We fear that corporate greed and power will find points of entry through Mexico or Canada, and if Chinese laborers know that their coming is attended with no personal risk, they will more readily make the effort. We also fear that the abolition of the general system of registry will be found to defeat the operation of the law, and also work a hardship to the Chinese already here, as without certificates, as provided in the vetoed bill, they will have no sufficient means of identifying themselves as belonging to the permitted classes.

In conclusion, we reiterate our belief that we can and ought to pass a bill for a longer period, and with such penalties as will secure obedience to its provisions. While protesting against the conditions which prevent us from going further in our desire to relieve the people of the Pacific slope from this great evil, we will heartily support the bill as offered by the majority of the committee, as the only available means of relief now in our power.

ALBERT S. WILLIS.
J. C. CLEMENTS.
H. D. MONEY.
SAMUEL DIBBLE.
C. DOWD.

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47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1018.

WILLIAM G. BUDLONG.

APRIL 12, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SHELLEY, from the Committee on Patents, submitted the following

REPORT:

[To accompany bill H. R. 4095.]

The Committee on Patents, to whom was referred the bill (H. R. 4095) for the relief of William G. Budlong, have considered the same, and report:

William G. Budlong, of Providence, R. I., a mechanic, obtained letters patent on the 12th of May, 1863, for an improvement in shoe-pegging machinery.

As shown by his statement, which is corroborated as to the main facts by other evidence, the invention is one of great ingenuity, value, and importance.

It consists in an apparatus to drive the peg by a blow similar to the one given by a hammer in the hands of a shoemaker.

Up to the time of this invention the most approved method was to press the peg by means of a cam into the hole previously made, the diameter of which had to be equal to the square of the peg used, to prevent the peg when so forced from breaking or brooming; the leather which formed the sole was required to be in a damp or wet state, consequently the only holding power was caused by shrinkage of the leather as it became dry, which caused a friction or adhesion to the sides of the peg.

When the sole became dry the shrinkage of the leather often displaced the peg so much as to separate it completely from the inner sole, and cause the peg to project beyond the sole.

This patent was reissued February 29, 1876. Budlong, from lack of means, was unable to bring his invention into general use, and failed to induce others to assist him.

He used all reasonable effort to introduce it, but without success, putting into the invention and expending, in his efforts to realize from the same, his entire earnings for the past twenty years, except the amount absolutely required for the support of his family.

The entire right in the patent is vested in said Budlong, who now has assurance of assistance to manufacture and introduce his invention, if the patent is extended.

No machine of his is in operation, and the public has never been taxed for the improvement.

A favorable report on this application was made to the House of Representatives at the last session.

We think the inventor should derive a reasonable reward for the benefit he has conferred upon the public, and therefore recommend the passage of the bill.

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47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1019.

ELISA A. MURRAY.

APRIL 12, 1882.—Reported adversely, committed to the Committee of the Whole House, and ordered to be printed.

Mr. DAWES, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1336.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1336) granting a pension to Elisa A. Murray, have had the same under consideration, and beg leave to submit the following report:

The committee find, from an examination of the papers on file in the original pension claim at the Pension Office, that the petitioner is the mother of Dwight E. Murray, who was a private in the Ninth Ohio Battery, and who was killed while in the service; that he enlisted October 11, 1861, and died September 17, 1863. The mother's application was filed November 10, 1878, and was rejected by the Pension Office August 6, 1879, on the ground that the soldier at the time he was killed was not in the line of duty.

The evidence in the case shows the dependence of the mother upon the soldier and his contributions to her support. The Adjutant-General's report in the case reports him absent without leave since September 17, 1863, supposed to have been captured by guerrillas. He was afterwards marked as a deserter on subsequent rolls. The evidence of officers and comrades on file in the case shows that the soldier with one or two comrades started out with the implied permission of their officers upon a foraging expedition while the company was encamped near Tullahoma, Tenn.; that while out upon such an expedition they were killed by bushwhackers, their bodies found, but no record made of their death on the company rolls. Lieutenant Cowles, of the company, states that the soldier came to his tent with one John Wilson, a comrade, and said they were going foraging in the country. The officer further states that he loaned to the deceased soldier his revolver and that they took with them two good horses. Comrades of the deceased soldier state that they had personal knowledge of the deceased and his comrade Wilson starting out on the foraging hunt, and that it was with the implied permission of their officers; that such permission had been allowed to the men of the command very frequently, and that they did not deem it any transgression of orders, inasmuch as their absence was with the full knowledge of the officers of the company. They further show that the soldier was killed while on this expedition, having been shot by bushwhackers or guerrillas with whom the immediate country was infested.

In the absence of a record that the soldier was away with leave, the Pension Office rejected the claim.

The death of the soldier is fully proven, and also the fact that his absence from camp was known to his officers and with their implied permission.

A majority of the committee in this case recommend that the bill be reported adversely.

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1020.

WILLIAM RICKARDS.

APRIL 12, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. JOYCE, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1442.]

The Committee on Invalid Pensions, to which was referred the bill (H. R. 1442) for the relief of William Rickards, has had the same under consideration, and begs leave to submit the following report:

The pensioner was allowed total in rank, $30 per month, from date of discharge, November 2, 1864, for severe gunshot wound of left breast. Under the biennial examination of 1865, the rate was reduced to three-fourths of total, $22.50. Dissatisfied with that rate, he applied for increase December 10, 1870. It was evident from the medical examination under the claim of increase that the disability was total, and $30 were allowed from the date of the examination, February 11, 1871. This action was proper under the law. That the disability has been permanent in a total degree ever since discharge cannot be doubted. The reduction made by a surgeon inexperienced in the rating of disabilities, and the inability of the Pension Office to correct the error except through an application for increase, has deprived the pensioner of a part of his pension to which he was justly entitled because of the severe nature of the wound.

The committee is clearly of the opinion that injustice has been done in the case, and therefore reports favorable on the bill, and recommends that it do pass.

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47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1021.

ALBERT O. MILLER.

APRIL 12, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. JOYCE, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1543.]

The committee have duly considered House bill No. 1543, and report that they find the facts as set forth in report made in this case in the Forty-sixth Congress, as follows:

That Albert O. Miller enlisted as a seaman in the United States Navy on the 23d day of September, 1864; that on the 15th day of January, 1865, while in such service and in line of duty, he participated in the capture of Fort Fisher; that after the capture of the fort the boats from which he and others had disembarked were found beached and partly filled with sand and water; that an attempt was made to bail the boats and prepare them for use, in which said Miller became drenched with the surf, and that he remained on the beach all night thoroughly wet by the exposure; that in consequence he suffered a severe attack of neuralgia and rheumatism, and that he has since suffered continuously from such rheumatism so contracted up to the present time; that his physical condition is now such by reason of said disease that he requires the regular aid and assistance of some other person, on account of total physical disability; that said Albert O. Miller was honorably discharged from the naval service of the United States; that he has made due and regular application for a pension (naval claim No. 3286), and has fully established his right to a pension of the amount named in the bill, save that he has failed to establish the facts of the time, place, and circumstances under which he contracted his said disability; that on account of such failure his application has been rejected by the Interior Department; that such failure has been by reason of the inability of said Miller to ascertain the whereabouts of his mates, the seamen who were present and had actual knowledge of said facts, and such failure has been notwithstanding diligent efforts on the part of said Miller to ascertain the whereabouts of such persons.

The committee, believing the case to be meritorious, recommend the passage of the accompanying bill as amended.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1022.

THOMAS W. ROTHROCK.

APRIL 12, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. JOYCE, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1451.]

That the committee have duly considered the bill (H. R. 1451) and find the facts as stated in a report made in the Forty-sixth Congress by the Committee on Invalid Pensions, which are as follows:

We find from an examination of the petition and of papers on file in the original claim at the Pension Office that the petitioner was a bugler of Company G, Eighty-first Pennsylvania Cavalry; that he enlisted September 3, 1861, and was discharged January 27, 1863; that he filed his application for pension May 7, 1870, and that the case was finally rejected by the Pension Office December 27, 1879.

The petitioner, in his declaration of pension, alleges a rupture on the right side, received the latter part of September, 1862, by being thrown on the pommel of his saddle on the march to Snicker's Gap, Va.

The testimony presented in the case shows, by his family physician, that the petitioner was free from hernia at the time of his enlistment. The evidence of two comrades is, that while in the line of duty and on the march aforesaid, the petitioner was ruptured; that they had personal knowledge of the injury; saw it occur while the petitioner was jumping his horse over a ditch; that they helped him off his horse and found the disability. Another comrade testifies to the same facts, and further that he took charge of the petitioner's horse and led him to the captain's quarters. The captain of the company testifies that about the time the petitioner alleges he received the injury he was reported to him as having been injured, and that he was unable to ride his horse; that he ordered him sent to hospital; that at the time the petitioner entered the service and up to the time he was disabled he was apparently sound and certainly free from hernia. The captain further states that he firmly believes the disability was contracted in the service.

The petitioner also swears that he received no treatment while in the Army, nor did any surgeon examine his rupture.

His family physician states that upon his return home he found him laboring with an irreducible hernia. Two neighbors and associates state that they knew the petitioner from his boyhood up; that they were members of a brass band with him; bathed with him, dressing and undressing in each others' presence; that they know positively that up to the time he enlisted the petitioner was free from hernia or any other disability.

The records of the Adjutant-General's Office show by the rolls for September and October, 1862, that the petitioner was on duty service at camp near Knoxville, Md.; November and December, 1862, and January and February, 1863, he was sick in hospital at Washington. He was discharged for disability January 27, 1863. It further states, "Upon re-examination this man is reported on the monthly roll of Company G as absent in hospital; place and date cannot be determined. Company return for August, 1862, does not show him absent. Company morning reports from August to December, 1862, furnish no information."

The certificate of disability gives as the ground of his discharge "total loss of teeth, preventing him from blowing his bugle."

Two boards of examining surgeons of the Pension Office, one at Philadelphia and one at this city, find the petitioner ruptured with hernia, the last-named board rating him at $8 per month. The ground of rejection by the Pension Office is that the records do not show him present with his company at the time he alleges he was disabled. The records do show him on detached duty at camp within 25 or 30 miles of the

place where he alleges he received the injury. As the company rolls cover a period of two months at the time, and as the petitioner's company was ordered out on a quick march, it is fair to presume that his services as bugler being needed, he joined his company and was present, as he alleges, at Snickersville, Va., notwithstanding the fact that the record does not show it.

Your committee is impressed with this idea, in view of the fact that three comrades, whose veracity is unquestioned and whose presence is verified, swear positively that he was present as alleged and that he was injured as alleged. We are of the belief that the discrepancy existing between the records and the sworn testimony of three comrades and a commissioned officer should not militate against the petitioner's right to a pension. From the evidence before us we are satisfied that he is a worthy subject and entitled to the benefits of the provisions of the pension laws, notwithstanding the technical objection of the Pension Office.

We therefore report favorably upon his claim, and recommend the passage of the accompanying bill, "granting a pension to Thomas W. Rothrock," as amended.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1023.

MYRON FELLOWS.

APRIL 12, 1882.—Laid on the table and ordered to be printed.

Mr. JOYCE, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 5035.]

The committee have duly considered House bill No. 5035, and find the facts as follows:

Myron Fellows enlisted at Canandaigua, N. Y., September 4, 1864, in Company K, Second New York Cavalry, and was discharged June 5, 1865.

He alleges that at Winchester, Va., January, 1865, he contracted a severe cold, caused by exposure, which resulted in catarrh.

His claim was rejected on the ground of his inability to furnish medical evidence showing the existence of catarrh in the service or at date of discharge.

He is unable to furnish the testimony of his regimental surgeon, because he is dead, and, for a like cause, cannot furnish affidavits of family physician to show his condition prior to enlistment. He was not treated in any hospital. The physician who treated him from discharge to October, 1874, is dead, and his testimony cannot be furnished.

As to his soundness and freedom from catarrh prior to enlistment, Elijah R. Hicok swears he has known him from childhood, and he was apparently a sound and healthy man before he entered the service. J. A. Bloom gives similar testimony.

George W. Ellis, late first lieutenant Company K, Second New York Cavalry, testifies that on the 22d January, 1865, at Winchester, Va., Fellows "contracted a severe cold, which went to his head and resulted in a catarrh, as deponent verily believes, and for the treatment of which disease or disability said Myron Fellows was under the care and treatment of the surgeon of the said second regiment, and that the said surgeon is now dead. That said Myron Fellows was, at the time he was discharged from the service, and still is, afflicted with and laboring under said disease. That he was of good habits, honest, sober, and upright."

Dr. N. Smith, of Canton, Pa., a practitioner for thirty-two years, has been the family physician of claimant for sixteen years, and has treated him for liver complaint and catarrh a great deal of the time, and is of the opinion that he will never be any better; and since the time of his first meeting him he has not been able to perform manual labor more than half the time.

Lay testimony, showing his condition by reason of this catarrh since he has left the service to have incapacitated him for the performance of manual labor one half the time, is also furnished.

There would seem to be no reasonable doubt that claimant was a sound man when he entered the service; that he contracted the cold, which resulted in catarrh, while in the service and line of duty; and that he has continued to suffer therefrom from the date of his discharge from the service.

The committee report adversely.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1024.

ELIZABETH S. SEELEY.

APRIL 12, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. J. B. RICE, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 450.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 450) for the relief of Elizabeth S. Seeley, have had the same under consideration, and beg leave to submit the following report:

It is satisfactorily established by the papers on file that the petitioner is the widow of Sherman M. Seeley, who enlisted as a private in the Sturgis Rifles June 15, 1861, and served with that command until May 21, 1862, when he was transferred to the Twenty seventh New York Volunteers, in which he was commissioned as a first lieutenant. During the engagement at Crampton's Gap, South Mountain, Maryland, he was wounded in the right thigh, and on this account received a leave of absence for twenty days, which was afterwards extended to sixty days, at the end of which he returned to his command in a feeble condition and requiring the use of a cane and crutch. Medical evidence of the officer's condition during his absence from his regiment shows the wound to have been a serious one, the ball having traversed the tissues of the thigh for upward of 5 inches, and that numerous abscesses formed in the neighborhood of the injured parts, which required repeated surgical interference. The officer's general health suffered in consequence, and the attending physicians testify that he suffered from blood-poisoning.

After his returning to his command his condition gradually improved, although he had not fully recovered his health when he took part in the siege of Fredericksburg, where he suffered much from fatigue and exposure, and was in consequence prostrated by an attack of pneumonia, which disabled him for many weeks, and from which the evidence is conclusive that he never recovered.

It is in evidence that Seeley was a faithful soldier and officer, and that his widow, who devoted herself faithfully to him until his death, is in destitute circumstances.

J. P. Taylor, of Labette County, Kansas, testifies that he knew Capt. Sherman M. Seeley well, and was his comrade, and that before receiving his wound he was a sound and robust man; that he took good care of himself as a soldier, and was temperate and prudent in his habits. That he last saw said officer at the Brainard House, Elmira, N. Y. (immediately after he had been discharged from the Army). He was then very low and unable to speak in his usual voice.

Dr. J. H. Page, acting assistant surgeon, says: "In my opinion Cap-

tain Seeley's health was greatly impaired by long continued and exhausting discharge from his wounds, complicated with pyæmia and abscesses."

Dr. John M. Johnson, of Atlanta, Ga., the attending physician at the time of his death, testifies that Seeley's health had been previously impaired and his constitution broken down.

It seems well proved that Seeley was sound and vigorous when he enlisted, and after his promotion to a first lieutenancy, and, in fact, until he was wounded. That he had only partially recovered from the effects of the wound when he was attacked with pneumonia, and that from the latter he never fully recovered. He sought health by changing his residence to Chicago, to Kansas, and finally to Atlanta, where, in 1873, he succumbed to an acute attack of fever, which was in all human probability fatal only because it found him in a condition of debility caused by his chronic ailments, to which he would have succumbed a little later.

The claim has been rejected in the Pension Office on the ground that the acute disease was not contracted in the service. Your committee, however, believe that it is reasonably certain that his death was due to acute disease attacking a man already nearly at death's door because of disease contracted in the service, and in the line of duty, and therefore beg leave to report the bill back favorably with the recommendation that it do pass, so amended as to provide that Elizabeth S. Seeley receive a pension at the rate of seventeen dollars per month from and after the passage of this bill.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1025.

LOUISA B. HOFF.

APRIL 12, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BROWNE, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill S. 526.]

The Committee on Invalid Pensions, to whom was referred the bill (S. 526) for the relief of Louisa Bainbridge Hoff, have considered the same, and make the following report:

The Senate, at this session, reported this bill favorably, and we adopt that report, which is as follows:

Mr. JACKSON, from the Committee on Pensions, submitted the following report (to accompany bill S. 526):

The Committee on Pensions, to whom was referred a bill for the relief of Louisa Bainbridge Hoff, having examined the same, report:

That both the Senate and House Committee on Pensions have heretofore made favorable reports upon this case, and the bill increasing Mrs. Hoff's pension to $50 per month has once passed the Senate. The last favorable report by the Senate committee was made to the second session of the Forty-sixth Congress. Your committee concur with the former action of the committee and Senate, and adopt the last report made to the Senate, as follows:

"That Commodore Henry Kuhn Hoff served for many years in the United States Navy with great distinction, and died of disease contracted in the service and in the line of duty, in the year 1878, he holding at that time the rank of commodore.

"The bill grants a pension to his widow at the rate of $50 per month instead of $30, the rate now allowed by law.

"In consideration of the great length of time during which Commodore Hoff served his country, and of the distinguished character of his services, the committee recommend the passage of the bill.

"This bill has been favorably reported and was passed by the Senate, and favorably reported by the House committee at the last session of Congress, but was not reached in the call of the Calendar before adjournment."

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1026.

JUSTUS BEEBEE.

APRIL 12, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BROWNE, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 800.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 800) granting a pension to Justus Beebee, have had the same under consideration, and report:

This case was favorably reported by this committee at the last Congress; that report is fully sustained by the evidence, and is as follows:

The evidence in this case shows that Sergeant Justus Beebee enlisted in the service of the United States at Flint, Mich., in Company G, Eighth Regiment Michigan Volunteers, to serve three years or during the war, and was discharged August 18, 1862, for disability. The certificate of discharge gives hernia as cause of disability, and that said Beebee was ruptured at time of enlistment.

On this statement the claim was disallowed. But there is no other evidence to support the statement of the surgeon who made this certificate for discharge, showing that claimant was ruptured at time of enlistment, but, on the contrary, Dr. Samuel Lathrop testifies that he has known Justus Beebee for the last past twenty-five years, and has been the family physician of Justus Beebee's father's family for that period of time; that he treated Justus Beebee prior to enlistment in the United States service for inflammation of the bladder, and that he is positive he had no hernia, for the reason that he made an examination at that time. Dr. Lathrop further states that immediately after his (Beebee's) return from the Army he knows he was suffering with hernia that opens into scrotum, and has been ever since his discharge.

The evidence further shows that claimant alleges scrotal hernia of left side, caused by a fall down stairs while on ship Vanderbilt, going from Annapolis, Md., to Hilton Head, with his command, about December 15, 1861, and was in line of duty when the accident occurred; his statement is corroborated by two comrades, William Christian and Sylvester W. Eccleston, who were with him at the time. Christian testifies that he detailed Sergeant Beebee to take command of the guard on that day, and that after his fall he was so injured that he had to relieve him from duty, and that after that time, while in the service, he was not able to do duty in the ranks, but had to be detailed on light duty.

Dr. Hulbert B. Shank, surgeon of the Eighth Michigan Regiment Infantry Volunteers, testifies that some time in the winter of 1862, while the said regiment was quartered at Beaufort, S. C., the said Justus Beebee applied to the deponent for medical treatment, and upon making examination found that he was suffering from incipient inguinal hernia, and adjusted a truss for such trouble, and excused him from duty on account thereof.

Your committee are of opinion, from the foregoing evidence, that the disability did originate in the service, and therefore recommend the passage of the accompanying bill.

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1027.

MERRITT LEWIS.

APRIL 12, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BROWNE, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 801.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 801) to increase the pension of Merritt Lewis, having had the same under consideration, make the following report:

This claimant was a member of Company K, Seventh Regiment of Michigan Volunteer Cavalry. At the battle of Gettysburg he received a wound which resulted in the amputation of his right leg above the knee, and while in Camden Street Hospital, Baltimore, he was attacked by scarlet fever, causing total deafness. He receives a pension of $24 per month for the loss of his leg. The Pension Office has decided that under the law the above sum is all that can be given him. The present Commissioner says this case is one that should have special relief at the hands of Congress. If Lewis had lost his leg at the hip-joint he would be entitled to a pension of $37.50 per month, or if he required the assistance of another person he would receive $50 per month. We think his disability is quite equal to the loss of a leg by amputation at the hip-joint. We recommend the passage of the bill, with an amendment, as follows:

Amend in the 6th line by striking out "infantry" and inserting "cavalry."

Amend in the 7th line by striking out "fifty dollars" and inserting "thirty-seven dollars and fifty cents."

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1028.

LABAN CONNER.

APRIL 12, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BROWNE, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 803.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 803) granting a pension to Laban Conner, have had the same under consideration, and report:

A bill granting a pension to this claimant was favorably considered by the Committee on Invalid Pensions at the second session of the Forty-sixth Congress. We have again examined the evidence in the case, and find the report made to the Forty-sixth Congress fully sustained. That report is as follows:

It appears that Laban Conner was serving in Company E, of the Eighth Michigan Volunteers; while in the service and in the line of duty, on the 15th day of June, 1864, at Petersburg, Va., while the regiment was charging the enemy the company had to seek cover in a deep rifle pit; that he fell just at the edge of said rifle pit, rolling into it, and before he could raise himself up the men who were just behind him jumped on him and injured his back so that he could not get up or away without help. A few days after he was injured he was sent home to Michigan, receiving his discharge and a pass before he left Petersburg. On his way home he lost his discharge, how or where he does not know; he was not treated in any hospital for this disability, but came on to his home in Michigan, where he was treated by Dr. Isaac Wixon, his family physician, who also testifies that he was acquainted with claimant and has been since 1858, and before he enlisted and went into the service in 1864 he was a strong, healthy, and sound man. The Commissioner of Pensions rejected the claim on the ground that he was not mustered into the service. While the records in the War Department do not show his service as an enlisted man, the testimony of Capt. E. M. Hovey, of said regiment, is to the effect that he saw the claimant mustered into the service. This is corroborated by the testimony of Edward Marum, captain of Company E, and Ben. F. Pearse, orderly sergeant of Company G, same regiment, and their testimony also proves conclusively that the claimant received the disability at the time and place alleged. And Dr. G. E. Wolers, examining surgeon at Fentonville, Mich., certifies that he has examined the claimant and finds that the disability originated, as stated by claimant, in the service and in the line of duty, and that the disability is permanent and will continue to increase. He says:

"I find soreness, on pressure, in the spine between and below the shoulder blade; also curvature of the spine. There is a pain extending from the spine to the right side just under the breast. The head and shoulders are thrown forward so much that he cannot stand erect. The curvature is on the increase. There is extreme weakness in the spine, so much so that it is difficult for him to rise when down."

In addition to the preceding testimony in regard to the service of Laban Conner in the regiment and company in which he served, Corporal William S. Jewell, of the company in which Conner served, testifies under oath that—

"He is personally acquainted with Laban Conner, late a private of Company E, Eighth Regiment Michigan Infantry; knew him before he enlisted; saw him in the lines at the city of Flint, where he was mustered, together with myself and others.

While drawn in line the paymaster called each man's name in the order in which it came, and he heard Laban Conner's name called, and saw him draw one month's pay and first installment of bounty, amounting in all to $73, and saw him make his mark to pay-roll, and knows that he drew his clothing, gun, and rations; he saw him in the battle of the Wilderness, and the fight in front of Petersburg, and the battle of Spottsylvania. He knows of him being disabled and discharged for his present disability."

And he further testifies that said Conner was a good, faithful soldier, never shirking his duty. Capt. Edwin M. Hovey, captain of the company, testifies to substantially the same thing as does Corporal Jewell, and says, in addition, that when Conner drew his first month's pay and part bounty, in all $73, he gave it to him (Captain Hovey) for safe keeping. He also testifies to the faithful service of the soldier, and to the fact of his being disabled as stated, and being discharged in consequence of the disability.

John Reason swears on oath that he was the neighbor of Laban Conner, and when he enlisted in the Army he went with him to the city of Flint, and was there when he was enlisted and sworn into the service, and saw him after he received his bounty and first month's pay, and received from Captain Hovey, of the company in which Conner had enlisted, the said sum of $73, mentioned in the affidavit of Captain Hovey, on the order of Conner. This seems to prove clearly the service of the soldier; and the fact that his name is not on the rolls of the War Department seems to be an omission or neglect on the part of some one which has worked a great injury to this claimant.

While the claimant may not have a *legal* right to a pension, in consequence of this ommission in the records, he has an equitable one; and as he served faithfully as a brave soldier in the Army and obtained his disability while in line of duty, and his officers and comrades all testifying to his general worth as a soldier, and the medical testimony proving that his disability is such that demands a pension, your committee feel that this is a meritorious case, and waive the fact that the records in the War Department do not show his enlistment, and report in favor of the bill granting said Laban Conner a pension. They, therefore, report back the accompanying bill and recommend that it do pass.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1029.

MRS. BETSEY A. SMITH.

APRIL 12, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WEBBER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 5805.]

The committee have considered the petition of Mrs. Betsey A. Smith, widow of the late Mark W. Smith, and find satisfactory testimonials and evidence that the said Mark W. Smith was in the United States service for 53¾ years, occupying the position of ordnance sergeant the most of the time and at his death, and that he died from the effects of disease contracted while on duty at Fort Griswold, Conn.; and that during the late war he had six sons in the service, two of whom lost their lives in the service. He was always known as a faithful soldier. The petitioner, Mrs. Betsey A. Smith, is now very old and feeble, with no one to depend upon for her support. Therefore, we report favorably the bill for her relief, and recommend that a pension be granted her, commencing at the date of the death of her husband, September 30, 1879, to be in accordance with the provisions of the general law governing such cases.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1030.

GEORGE C. JENKS.

APRIL 12, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BUCHANAN, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 1065.]

The Committee on Claims, to whom was referred the petition of George C. Jenks, of New York, having had the same under consideration, submit the following report:

The petitioner represents that on October 9, 1860, a patent was issued to him by the United States, through the Commissioner of Patents, granting to him the exclusive right to manufacture, use, and vend to others to be used, a certain improvement, which he believes would greatly increase the safety of drop-letter boxes. He claims that he has made repeated applications to the Postmaster-General, upon the recommendation of prominent citizens, to have his patent adopted, but his applications have always been refused, notwithstanding his continued efforts to bring his invention to perfection, and to have it adopted by the government. The petitioner represents that, although his several proposals to the Postmaster-General were rejected, the Post-Office Department, subsequent to said proposals and rejections, and in violation of his patent, and with a full knowledge of the same, did cause to be placed upon letter-boxes in public use a device in which the principle of his invention is involved, to the great wrong and injury and damage of petitioner, for which he asks compensation at the hands of Congress. The petitioner further claims that at the time his propositions to the Postmaster-General were under consideration by that officer, that the merits of his improvement might be better understood, he furnished a model for a letter-box with his device attached, showing its great utility and value to the government, which model and attachment were left with the Postmaster-General, and, so far as the petitioner knows, is now in the department. In reply to a letter upon the subject, during the fore part of the year 1876, the then Postmaster-General said "that he knew nothing of the patent as claimed by the petitioner, and knew nothing of its infringement, as alleged by petitioner."

The evidence, as submitted by the claimant, seems to substantiate all he alleges; it shows such a patent was issued to him for such a letter-box; it shows he had correspondence with the officers of the department relative to the adoption of his invention, and to the manufacture of letter-boxes with the improvement attached. This proposition was rejected on the ground that he asked too high a price, even if the department desired to adopt the improvement. The claimant charges that the gov-

ernment very soon made an arrangement for the manufacture of new letter-boxes with his improvement attached, without his knowledge or consent thereto, and have continued to manufacture and use the same ever since, notwithstanding he has repeatedly called the attention of the officers of the government to the gross violation of his rights, and protested against such a course on the part of the government. The papers in the case show that at one time the claimant proposed to post notices on or near the boxes, giving notice that the government was violating his private rights in the use of boxes thus constructed; but he was notified by the department that any interference with them in the manner indicated would subject him to arrest and prosecution. Affidavits are on file in the case showing that government letter-boxes are now in use with the claimant's invention attached, with the appearance of having been in use for years in the following cities: Baltimore, Md.; Cincinnati, Ohio; Wilmington, Del.; Washington, D. C., and in many other cities in the United States. The committee, therefore, find this state of facts to exist in relation to this matter: That the government, through one of its executive branches, issued to one of its citizens a patent for an invention proposing to protect him in the use of the same; that very soon after another executive department, refusing to purchase the said invention, but without consent, right, or compensation therefor to the owner, and with knowledge of the letters patent, did appropriate the same to its use, and refused to recognize the rights of the claimant in his patent or to allow any compensation therefor. The committee are of opinion that the claimant is entitled to redress, provided the facts are as stated in the petition and affidavits submitted, therefore report the bill referring the case to the Court of Claims for adjudication, and recommend that the bill do pass.

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1031

CHARLES P. WANNALL.

APRIL 12, 1882.—Laid on the table and ordered to be printed.

Mr. RAY, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 2548.]

Charles P. Wannall claims $500 for services rendered as a justice of the peace, in administering the oath of allegiance to clerks and other employés in the United States Treasury Department, from 1861 to 1864, inclusive. The claimant during that time was, and ever since has been, a clerk in that department. He was a justice of the peace during the four years above mentioned, and, for the purpose of this report, it may be taken for granted that his lawful fee for the service named may have amounted to the sum mentioned in the bill, to wit, $500 or more.

There are several reasons why your committee feel bound to make an adverse report, and among them are—

First. This service was not rendered for the government. By law, those who were qualified before Wannall, as magistrate, had to take the required official oath. Being duly sworn into office was a part of their qualifications before they could legally serve or be paid for their services, and it was the duty of each appointee to properly qualify himself for service at his own expense. Wannall was under no obligation to administer oaths to these persons without he chose to do so. The legal fee for its administration was due from, and should have been paid by, each. There would seem to be as much propriety in calling upon the government to pay a clerk's car fares, or hotel bills, in traveling from his home to Washington, after being notified of an appointment, as in paying a magistrate's fee for administering to him an official oath. It is believed that this claim is novel in its character, and that its allowance ought not to be encouraged.

Second. No such suggestion having been made to the contrary, your committee believe the fact to be that Wannall performed this service, for which five hundred dollars is now claimed, during office hours in the Treasury Department, while his time belonged to and was paid for by the government, and, therefore, we are of opinion that the claimant has already been amply and sufficiently compensated, so far as it is concerned. At all events, we have no hesitation in recommending that this bill do not pass.

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47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1032.

JACOB LUCAS.

APRIL 12, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. RAY, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 3908.]

From a careful examination of all the papers in this case, including the certified copy of the testimony on the trial, it appears that Jacob Lucas was, without criminal intent on his part, entangled in the net of whisky frauds which covered the whole whisky business of the Pekin, Ill., district in the year 1874 and about that time; that he was the victim, so far as he was involved at all, of circumstances, and the fraudulent practices of those with whom his official duties brought him into contact. He was a United States gauger, and the charge upon which he was held and convicted was based on provisions of section 3169 Revised Statutes, to wit, such negligent performance of duty as afforded opportunity of fraud. It is nowhere asserted or intimated that he ever received any profit or compensation whatever from any person connected with the whisky business, its manufacture or rectification. On the contrary, it appears to have been well understood, by those engaged in defrauding the revenue, that it was useless to approach him with any corrupt proposal. The testimony of the best people of his county and district, who have known him for years, is that he is an honest man and an excellent and useful citizen. Pending the indictment found against him, he was elected an assessor of property in the city in which he lives, and he still appears to enjoy the confidence of his fellow-citizens.

The particular neglect of official precaution charged against him related to the destruction of stamps removed from packages from which whisky had been emptied.

These were removed in the then ordinary practice, torn in pieces and thrown on the always wet floor of the room in which packages (barrels) were emptied. It appears that of such torn stamps, afterwards picked up, pieces were put together which were found to fit, and reused on the other packages, being carefully adjusted to each other and covered with varnish, so that detection of the fraud was difficult.

On the trial, diligent examination of his reports by the prosecution failed to impeach them, except in one or two instances, and it clearly enough appeared that in those his name had been forged.

Almost three years had elapsed after the transactions occurred in respect to which he was complained of, and the charges might properly have been considered as somewhat stale.

His sentence was illegal. The penalty for such an offense fixed by the statute is (sec. 3169, sub-sec. 10), "shall be dismissed from office and shall be held to be guilty of a misdemeanor, *and shall be fined not less*

than one thousand dollars nor more than five thousand dollars, AND be imprisoned *not less* than six months nor more than three years."

Upon indictment, Mr. Lucas was tried, convicted of negligence as gauger, and sentenced to pay a fine of only $500 and costs, *with no imprisonment.* Having no redress by writ of error or appeal, and conscious of his own innocence, he applied for, and on the 9th day of January, A. D. 1880, was, by the President, granted a full and unconditional pardon, as follows, viz:

RUTHERFORD B. HAYES, PRESIDENT OF THE UNITED STATES OF AMERICA,

To all to whom these presents shall come, greeting:

Whereas Jacob Lucas, on conviction of neglect of duty as a United States internal-revenue officer, was sentenced by the United States district court for the southern district of Illinois, at its January term, 1879, in two cases, in one to pay a fine of $500, and in the other to pay the costs of prosecution;

And whereas said Lucas has always, for many years, been highly esteemed in the county of his residence as a citizen and man of integrity;

And whereas the offenses of which he was convicted as aforesaid appear to have been technical rather than substantial or intentional;

Now, therefore, be it known, that I, Rutherford B. Hayes, President of the United States of America, in consideration of the premises, divers other good and sufficient reasons me thereunto moving, do hereby grant to the said Jacob Lucas a full and unconditional pardon.

In testimony whereof I have hereunto signed my name and caused the seal of the United States to be affixed.

Done at the city of Washington, this ninth day of January, A. D. 1880, and of the Independence of the United States the one hundred and fourth.

(Signed:) R. B. HAYES.

By the President:
[SEAL.] WILLIAM M. EVARTS,
Secretary of State.

This pardon was granted upon a careful examination of the case—including a full report of the testimony adduced against Lucas at the trial—by the Department of Justice, and the Commissioner of Internal Revenue concurred with Attorney-General Devens in recommending to the President that Lucas be pardoned.

While his application for pardon was pending before the President, the United States marshal, through his deputy, undertook to compel Mr. Lucas to pay the fine imposed, and did actually force him to pay $250 of the amount, as is shown by the marshal's receipt, as follows:

PEKIN, ILL., *May* 21, 1879.

Received of Jacob Lucas, of Pekin, Ill., the sum of two hundred and fifty dollars to apply on *capias pro fine* Gen. No. 4155, in the United States district court, southern district of Illinois, in the matter of the United States of America *vs.* Jacob Lucas.

E. R. ROE,
United States Marshal,
By C. S. ROE,
Deputy.

And the money so collected was subsequently paid into the Treasury of the United States by the marshal.

This money, it appears, was paid under protest, and had it not been for the interference of the Washington counsel of Mr. Lucas, the whole amount of the sentence would have been extorted from him, as appears by the following correspondence:

WASHINGTON, D. C., *July* 3, 1879.

DEAR SIR: I called to-day at the office of the Attorney-General in behalf of J. Lucas, of Pekin, Ill., and showed them his letter to you and your indorsement thereon, in which you say, "The district attorney declines to grant any more time, and if the

matter is not settled up as agreed, look out for more costs. (Signed) E. R. Roe, U. S. M." Whereupon a letter was mailed to the district attorney calling to his attention Mr. Lucas's application for pardon, sent to him for report June 17, 1879, and directing him to make the report at once; and I was advised to write to you, informing you that an application was now pending, and that, if it had not been for the delay of the district attorney it would have been acted upon before now; that officers of the government have no right to threaten; that when an application for pardon is pending it is in extreme bad taste to annoy the applicant. I trust you will grant Mr. Lucas the grace he asks, inasmuch as the money would have to be paid back, if collected, when he is pardoned.

Your obedient servant,

D. W. GLASSIE.

E. R. ROE, Esq.,
U. S. Marshal, Southern District Illinois, Springfield, Ill.

UNITED STATES MARSHAL'S OFFICE,
SOUTHERN DISTRICT OF ILLINOIS,
Springfield, Ill., July 7, 1879.

D. W. GLASSIE, Esq.,
Washington, D. C.:

DEAR SIR: I have your letter in regard to Mr. J. Lucas, of Pekin.

The letter from which you quote an indorsement *purporting* to be signed by me must have been so signed by my deputy. I never signed or saw it, and as you understand it, it was certainly improper. I never so much as *appear* to threaten, and the deputy has done so under a misapprehension of his duty. His real intention appears to have been to *save costs* to Mr. Lucas. Of course, unless otherwise instructed by the district attorney, nothing further will be done by myself or deputy while the case is pending in Washington. *Personally,* I should be gratified to see Mr. Lucas released.

Yours, &c.,

E. R. ROE, *U. S. M.*

I. A glance at the statute (sec. 3169, sub.-sec. 10) will be sufficient to show that the judge who tried Mr. Lucas imposed a sentence upon him which the law does not authorize, and which, if the cause could have been reviewed by a writ of error or other appropriate proceeding in a higher court, would have been set aside.

McDonald *vs.* The State, 45 Md., 91.
Watkins *vs.* The State, 14 Md.
1 Chitt. Crim'l Law, 755.
4 Black. com., 393.
Rex *vs.* Ellis, 5 Barn & Cress, 395.
King *vs.* Bourne, 7 Adol. & Ellis, 58.
Silversides *vs.* The Queen, 2 Gale & Davidson, 617.
Holland *vs.* The Queen, 2 Jebb & Syme, 357.
Hawkins, 2 book, chap. 50, sec. 19.

In Watkins against the State, the court say—

That no other punishment can be inflicted than such as the laws prescribe; that consequently, judges in the exercise of their discretion *can invent no new penalties* to suit the offense or to gratify their own caprices. The plaintiff in error was indicted and convicted of simple larceny to the value of $5. The statute provides that upon conviction a free negro shall be sentenced to be sold at public sale as a slave for the period of not less than two nor more than five years. The judgment of the court is that the free negro "be sold as a slave for five years outside of the limits of the State." Now, this is not the sentence of the law. It is the duty of the court to enforce the law as it is declared by the legislature; this has not been done in this case. The judgment was not authorized by law and must be reversed. The effect of the reversal for error in the judgment itself defeats all former proceedings in the cause. *Id.*

The sentence in the Lucas case was not the sentence of the law, and hence it was illegal and voidable. He was sentenced in January, 1879, and therefore was unable to take advantage of chapter 176, page 451, Supplement to the Revised Statutes, passed March 3, 1879, giving the

United States circuit courts appellate jurisdiction in certain criminal cases.

II. Furthermore, it is quite clear that the purpose of the President in granting him a full and unqualified pardon was to remit all of the pains and penalties imposed by the sentence. The President intended to grant a complete pardon, and thereby relieve Mr. Lucas from the payment of anything. Now, your committee find as a matter of fact that the recommendation of the Attorney-General was for a full pardon, and that the President intended to grant a full pardon. The pardon would have had that effect had it not been for the over-zealous interference of the deputy marshal in collecting the $250 while the application for pardon was pending. The money having been covered into the Treasury before the pardon took effect is the only reason why an act of Congress is necessary to give Mr. Lucas the relief which the pardon was intended to grant. Touching the legal effect of the pardon, the following authorities are among those bearing upon the point under consideration:

Holliday *vs.* The People, 5 Giliam (Ill.), 215.

In *Ex parte* Garland, 4 Wall., 333, the Supreme Court say:

> A pardon reaches both punishment prescribed for the offense and the guilt of the offender, and when the pardon is full it releases the punishment and blots out of existence the guilt, so that in the eye of the law the offender is as innocent as if he never committed the offense.
>
> "A pardon," says Lord Coke, "is a work of mercy, whereby the King, either before attainder, sentence or conviction, or after, forgiveth any crime, offense, punishment, execution, right, title, *debt*, or duty, temporal or ecclesiastical. *All that* is forfeited to the King by attainder he may restore by his charter." (3 Inst., 233 d.)

In *Ex parte* Wells, 18 How., 307, the Supreme Court say:

> When the words to grant pardon were used in the Constitution, they conveyed to the mind the authority as exercised by the English Crown or by its representatives in the colonies. * * * We must, then, give the words the same meaning as prevailed here and in England at the time it found a place in the Constitution.

Your committee, in view of all the circumstances of this somewhat peculiar case, conclude the petitioner ought to receive back the $250, and hence have reported back the bill for his relief with the recommendation that it pass.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1033.

OWNERS OF SCHOONER WALTER B. CHESTER.

APRIL 12, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BOWMAN, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 3985.]

The Committee on Claims, to whom was referred the bill (H. R. 3985) for the relief of the owners of the schooner Walter B. Chester, have considered the same, and respectfully report:

On the night of November 13, 1880, the United States steamship Vandalia and the schooner Walter B. Chester, of Wellfleet, Mass., came into collision, as they were approaching each other at a speed of between seven and eight knots per hour for each vessel. The schooner was much injured by the collision, and it is claimed that the officers of the Vandalia were responsible for the accident. It seems to this committee that the United States should be under no greater or less liability in cases of collision of this kind than an individual owner of a vessel would be under similar circumstances, and that complicated questions of this nature, involving questions of due diligence or carelessness on the part of the officers of both vessels, of disputed facts as to the mode of sailing of each vessel, their proper courses, display of lights, &c., and the amount of damages, and how they should be apportioned, can only be properly decided in an admiralty court, where all these points can be fully and legally investigated.

The committee therefore report back the accompanying bill for the reference of this case to the district court of the United States, and recommend that the same do pass.

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1034.

JOSHUA JOHNSON.

APRIL 12, 1882.—Reported adversely, committed to the Committee of the Whole House, and ordered to be printed.

Mr. HOLMAN, from the Committee on War Claims, submitted the following

REPORT:

[To accompany bill H. R. 4946.]

The Committee on War Claims, to whom was referred the bill (H. R. 4946) for the relief of Joshua Johnson, report as follows:

This bill proposes that the Secretary of the Treasury be directed to ay to Joshua Johnson, late a private in Company D, Fifteenth Regiment Pennsylvania Cavalry Volunteers, the sum of $566.51, for pay, clothing allowance, and commutation of rations, from May 3, 1864, to June 21, 1865, and $100 additional bounty, and also that the Secretary of War be directed to grant him an honorable discharge from the military service.

It appears from the records and evidence in reference to the subject-matter of this bill, obtained from the Second Auditor's Office, that his claim was examined in connection with a report of his military service, received from the Adjutant-General, U. S. Army, which report shows that he was enrolled August 15, 1862, and that he was furnished by the Adjutant-General, February 3, 1877, with a discharge certificate to date from May 3, 1864, and a settlement was made in his favor April 11, 1877, for pay and clothing allowance to include May 3, 1864. This soldier did not claim bounty, and, had he claimed any, it could not, under the law, have been allowed, as he (as reported by the Adjutant-General) did not serve two years, and was not discharged by reason of a wound, or injury of the nature of a wound. He did not claim commutation of rations, nor was any allowed. This allowance is only commuted to enlisted men when on furlough or while prisoners of war.

The committee report adversely to the bill, and recommend it do lie upon the table.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1036

EXTENDING OPERATIONS OF LIGHT-HOUSE BOARD OVER COLUMBIA AND WILLAMETTE RIVERS, OREGON.

APRIL 12, 1882.—Referred to the Committee on Appropriations and ordered to be printed.

Mr. GEORGE, from the Committee on Commerce, submitted the following

REPORT:

[To accompany bill H. R. 3753.]

The committee having the bill to extend the operation of the Light-House Board over the Columbia and Willamette Rivers in Oregon under consideration, beg leave to report:

That there is great necessity for the erection of lights along these rivers for the benefit of commerce, especially at the following points: Walker's Island, Martin's Island, two at mouth of Willamette River, one at Post-Office Bar, and one at Swan Island Bar. Commerce along these rivers is very valuable and growing rapidly. The export trade alone for the last year amounted to nearly fifteen millions of dollars.

Deep ocean ships from all ports of the world ascend for nearly 120 miles into the interior along these rivers to Portland, and lights at this point and along the river will prove of very great service to the commercial interests of Oregon and Washington Territory.

The following letters from the Secretary of the Treasury and the Light-House Board approve the same:

TREASURY DEPARTMENT,
February 18, 1882.

Hon. M. C. GEORGE,
Committee on Commerce, House of Representatives:

SIR: I have the honor to acknowledge the receipt of your letter of the 11th instant, transmitting for the views of this department House bill No. 3753, extending the operations of the Light-House Board over the Columbia and Willamette Rivers Oregon, and appropriating three thousand dollars for the purpose.

In reply I have respectfully to transmit herewith a copy of a letter of the Light-House Board, dated the 15th instant, stating that, in the opinion of the board, the interests of commerce and navigation would be benefited if it were to light and buoy the rivers above named as it has the Ohio and Mississippi, and that it deems the sum named sufficient to do the proposed work for the first year.

Very respectfully,

CHAS. J. FOLGER,
Secretary.

TREASURY DEPARTMENT,
OFFICE OF THE LIGHT-HOUSE BOARD,
Washington, February 15, 1882.

SIR: Referring to department letter, E. W. C., of February 14, inclosing a letter from the H. R. Committee on Commerce, transmitting bill H. R. No. 3753, for extending the operations of the Light-House Board over the Columbia and Willamette Rivers in Oregon, and appropriating $3,000 therefor, I have the honor to say that the

board believes that the interests of commerce and navigation would be benefited if it were to light and buoy these rivers as it has the Ohio and Mississippi, and that it deems the sum named sufficient to do the proposed work for the first year.

The bill in question is, as requested, herewith returned.

Very respectfully,

JOHN RODGERS,
Rear-Admiral, U. S. N., Chairman.

The honorable the SECRETARY OF THE TREASURY.

Your committee therefore report the same back with a favorable recommendation, and ask that the bill be referred to the Committee on Appropriations for the necessary appropriation.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1037.

CIRCULATION OF NATIONAL-BANK NOTES.

APRIL 12, 1882.—Referred to the House Calendar and ordered to be printed.

Mr. CRAPO, from the Committee on Banking and Currency, submitted the following

REPORT.

[To accompany bill H. R. 5806.]

The Committee on Banking and Currency, to whom were referred the bills (H. R. 2469 and 3327) relating to the amendment of sections 5171 and 5176 of the Revised Statutes, in relation to the circulation of national-bank notes, beg leave to report the bill herewith submitted as a substitute therefor, and to submit the following report:

The sections of the Revised Statutes which are changed by this bill are the following:

SEC. 5171. Upon a deposit of bonds as prescribed by sections fifty-one hundred and fifty-nine and fifty-one hundred and sixty, the association making the same shall be entitled to receive from the Comptroller of the Currency circulating notes of different denominations, in blank, registered and countersigned as hereinafter provided, equal in amount to ninety per centum of the current market value of the United States bonds so transferred and delivered, but not exceeding ninety per centum of the amount of the bonds at the par value thereof, if bearing interest at a rate not less than five per centum per annum: *Provided*, That the amount of circulating notes to be furnished to each association shall be in proportion to its paid-up capital, as follows, and no more:

First. To each association whose capital does not exceed five hundred thousand dollars, ninety per centum of such capital.

Second. To each association whose capital exceeds five hundred thousand dollars, but does not exceed one million of dollars, eighty per centum of such capital.

Third. To each association whose capital exceeds one million of dollars, but does not exceed three millions of dollars, seventy-five per centum of such capital.

Fourth. To each association whose capital exceeds three millions of dollars, sixty per centum of such capital.

SEC. 5176. No banking association organized subsequent to the twelfth day of July, eighteen hundred and seventy, shall have a circulation in excess of five hundred thousand dollars.

The purpose of this bill is to place all national banks upon the same footing in reference to the percentage of circulating notes which may be issued to them upon the deposit of government bonds. In the judgment of your committee there is now no good reason why a bank with a capital of one million dollars, organized at one date, may have a circulation of eight hundred thousand dollars, while another bank with

equal capital is restricted to five hundred thousand dollars. Under the policy which now prevails of free banking, there should be no discrimination of circulation on account of the amount of capital fund. The margin of ten per cent. affords an abundant security to the note holder in addition to the liability of the shareholders.

This bill meets the disputed question whether, if the public debt at any time falls below par in the market, the Comptroller shall call for additional bonds for the protection of the holders of national-bank notes. By the provisions of the bill circulation can never be issued beyond ninety per cent. of the par value of the bonds, however high a rate of premium they command. But if at any time and from any causes bonds fall below par, then the margin of ten per cent. must be maintained upon the actual market price of the bonds deposited as security.

Your committee recommend the passage of the substitute herewith reported.

C

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1038.

ENOCH TAYLOR.

APRIL 12, 1882.—Laid on the table and ordered to be printed.

Mr. PAYSON, from the Committee on the Judiciary, submitted the following

REPORT:

The Judiciary Committee, to whom was referred the petition for the relief of Enoch Taylor, having had the same under consideration, would report:

That in this case the principles are the same as in the case of Matthias App, herewith reported, assuming the facts claimed to be sufficiently proved.

The property was sold for non-payment of taxes on June 22, 1864, for $565, taxes, &c., $66.25.

Taylor procured the deed of Haile, under which he claims, March 1, 1865, a warranty deed.

He sold and conveyed by warranty deed to one Lumpkin in April, 1873, and, to protect Lumpkin, purchased the tax-title in December, 1873.

There is no proof that Haile was the owner at the time of the sale, and the assessment was to J. M. Alexander; nor is it clear that the land described in the Haile deed is the same that was sold. Yet, if these were found favorably to Taylor, he would not, for the reason stated in considering App's case, be entitled to the fund. He is not the "owner," nor his "legal representative." The bill is reported adversely.

The officers of the Treasury Department do not seem to have considered the legal point involved in this case in the correspondence with reference to it, found among the files of the case, as to the provisions of the statute restricting the right to the surplus to the owner or his legal representatives.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1039.

MATTHIAS APP.

APRIL 12, 1882.—Laid on the table and ordered to be printed.

Mr. PAYSON, from the Committee on the Judiciary, submitted the following

REPORT:

The Judiciary Committee, to whom was referred the petition of Matthias App, making claim to certain funds in the Treasury, have considered the same. We find that there are many cases of like character pending before this Congress, and there is now nearly $200,000 held in trust by the government, surplus funds arising from sales of real estate above taxes, costs, &c., under the act of Congress of August 5, 1861, and subsequent legislation on the same subject, as to a large proportion of which, conflicting claims of right are presented.

We have carefully considered the case of App, which is identical in principle with many others, and decisive of them, and submit the following report.

The claim for relief in this case is based upon this state of fact:

Under the provisions of the act of Congress of August 5, 1861, providing for a levy of a direct tax of $20,000,000, annually, to be apportioned among the several States and Territories, &c., taxes to the amount of $17.50 were assessed against the north 23 feet of lot No. 4, block 19, 14 C. D., city of Memphis, Tenn., and for non-payment of these taxes this lot was, by the United States authorities, on June 21, 1864, sold to Renel Hough for $600.

The amount due at the date of sale for taxes, interest, costs, penalty, &c., was $37.53; the excess was covered into the Treasury and petitioner App claims it. The tax was assessed to L. D. Stickney & Co., who were assumed to be the owners of the property. By a duly certified abstract of title furnished, it appears that Stickney, in 1860, held a bond for a deed to said property given by Philip Weilen, the then owner of the fee. Stickney assigned the bond to Solon Borland, and on May 15, 1860, Weilen conveyed the lot to Borland by warranty deed.

Solon Borland sold the lot and conveyed it to Euclid Borland November 29, 1860, and Euclid Borland remained the holder of the fee title until December 22, 1865, when, for a consideration of $6,000, the full value of the property, he conveyed the lot to App, the petitioner herein, by full covenant warranty deed. As the tax title held by Hough was still outstanding, to perfect the title secured from Borland, App, on March 13, 1873, purchased the interest of Hough for $925, and Hough executed and delivered to App a quit-claim deed for the interest he held under the tax sale.

It also appears that on April 6, 1876, App sold and conveyed the land to one James T. Brady, the conveyance being recorded in book No. 111, p. 280, of the real-estate records of Shelby County, Tennessee.

It also appears, *ex parte*, that in 1863 App made a verbal contract with the agent of Borland for the purchase of this lot, paying nothing, however, then, and afterwards took possession of it, not as part of the contract; but finding it vacant afterwards, assumed control and occupation, without any bargain or contract as to possession with Borland. App held possession, paying the local taxes on it, until the conveyance by Borland to him in 1865 for the consideration contracted. Also, *ex parte*, that Borland agreed with App at the time of the conveyance to App to pay off or take up the tax incumbrance held by Hough.

In July, 1877, App applied to the Treasury Department for the excess of the tax sale, paid by Hough, above the amount of tax, costs, &c.

The department held that there was no statute authorizing refunding this excess and declined to pay App, who presented his petition for the same relief to the House of Representatives of the Forty-sixth Congress. It was referred to the Committee on Claims, which committee submitted an adverse report. From this report it would seem that that committee was not furnished with any evidence of the condition of the title, and assumed that Stickney & Co. were the owners at the time of the levy of the tax, as the lot was assessed to them.

The legal point involved does not appear to have been directly considered by that committee, and App makes his application for relief here.

The provisions of the statute covering this case are these:

Section 36 of the act of 1861 provides, in substance, that when the taxes are levied on property which is not divisible, so as to enable the collector to raise the whole amount of the tax, with all costs, &c., by sale of a part, the whole property shall be sold, and the surplus of the proceeds of the sale, after satisfying the tax, costs, &c., shall be paid to the owner of the property, or his legal representative, or, if they cannot be found, or refuse to receive it, then such surplus shall be deposited in the Treasury to be held there for the use of the owner, or his *legal representative*, until he or *they* shall make application therefor to the Secretary of the Treasury, who shall, upon such application, by his warrant on the Treasury, cause the same to be paid to the applicant.

This was the act of August 5, 1861.

On June 7, 1862, an additional act "for the collection of direct taxes in insurrectionary districts, &c.," was passed by Congress.

Section 4 of this act provides that "the title of, in, and to each and every piece or parcel of land upon which said tax has not been paid as above provided, shall thereupon become forfeited to the United States, and upon the sale hereinafter provided for, shall vest in the United States, or the purchaser at such sale, in fee simple, free and discharged from all prior liens, incumbrances, right, title, and claim whatsoever." These are believed to be all the provisions of the statute relating to the case in hand.

Under these acts the Treasury Department held, uniformly, that section 4 of the act of 1862 cut off the right of the owner to the surplus, and that all the proceeds of the sale belonged to the United States, as by that section, in case of failure to pay taxes, "the *title* to the property became forfeited to the United States." So applications for refunding of surplus proceeds have uniformly been refused.

But at the October term, 1881, of the Supreme Court of the United States, in the case of the United States *vs.* Charles M. Taylor, appeal from the Court of Claims, which case involved the same question as is presented by this bill, as to the liability of the United States to refund the surplus funds, the court held, following Bennett *vs.* Hunter, 9 Wall.,

326, that the forfeiture declared by the fourth section of the act of 1862 does not operate, of its own force, to vest the title to the land forfeited in the United States upon the non-payment of the taxes (notwithstanding the terms of the act), but that a sale, as provided, was necessary to transfer the title.

The case decides that the acts under consideration were not confiscation acts, but were intended to provide for collection of these direct taxes, and that the two acts should be construed together; that there is no repeal, by implication, of section 36 of the act of 1861 by section 4 of the act of 1862, so that the right to the surplus, as provided by the act of 1861, still remains to the owner of the real estate, or his legal representative.

Hence it would seem to follow that there is no necessity for a bill for special relief as to any party entitled to such surplus, but that it is the duty of the Secretary of the Treasury to make payment under the provisions of the act, unless it should be held that, as the surplus is paid into the Treasury, possibly it might require an appropriation by Congress before that officer would be justified in making payment.

The committee are of opinion that under the language of the act no intervention of Congress is necessary, but that as the money is in the Treasury for the specific purpose, it can be directly applied by the Secretary, on proper application and proofs of right to receive.

But if Congress is to pass on the question, App's right must rest on one of these two grounds:

First. That as between him and Borland he was, after the verbal contract for the purchase of the lot in 1863, the *owner* within the meaning of the law, and so entitled to this surplus, or

Second. That he is a "legal representative" of Borland; in other words, that a grantee is a "legal representative" as to this fund.

As to the first ground, it is deemed sufficient to say that such a claim of ownership as against Borland would be inconsistent with that of a grantee in a deed with covenants of warranty. If App *was* the owner in 1863, he would be bound to pay the tax, and Borland not under obligation to do so. But clearly, under the covenants in his deed to App, Borland is liable to App for what App had to pay Hough for the tax title—to perfect the Borland title—if the Hough title was valid; if *not* valid, then App ought not, as against Borland, to have paid anything to Hough. Of course the validity of Hough's title could only be settled by litigation, and if on a trial at law, App had defeated Hough, then, under the act of Congress, Hough would have been entitled to this money.

Again, App had only a parol contract with the agent of Borland in 1863, barely for the purchase of the property, without any stipulation as to possession, and took possession, finding the property vacant, some time after. A verbal contract for the purchase of real estate without payment of any part of the purchase money has never been held to vest any rights in the vendee. So it seems clear that App cannot be treated as owner till his title vested by Borland's deed in 1865.

As to the second ground, the phrase "legal representative" is believed to be confined in cases like this, to those acting under a will, or where the right is cast by a statute of descents in intestate estates.

Beyond these cases the expression "legal representatives" seems never to be used except in relation to the *thing* assigned or granted; as to the subject-matter of the assignment or grant, as expressed in the contract or deed, the assignee or grantee is sometimes referred to as the "legal representative" of the assignor or grantor.

But as it is urged that App should be regarded as the "legal representative" of Borland, because he is the grantee—query, whether by his deed to Brady in 1876, before this fund is paid out, his right did not pass to his grantee? The argument proves too much.

Our conclusions therefore are, that App's remedy is on the covenants in his deed that makes him whole; that he has no legal or equitable claim to this fund; that such right is in Borland, or his executors and administrators; that to reach the fund no special act of Congress is necessary, as the Secretary of the Treasury has ample power in the premises—and we report the petition back with the recommendation that it lie on the table.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1040.

CONTESTED ELECTION CASE OF BAYLEY vs. BARBOUR.

APRIL 12, 1882.—Ordered to be printed.

Mr. WAIT, from the Committee on Elections, submitted the following

REPORT:

The Committee on Elections, to whom was referred the above contested election case, having had the same under consideration, beg leave to submit the following report:

This case comes before the committee upon the application of S. P. Bayley, who contests the right of John S. Barbour to a seat in this House from the eighth Congressional district of Virginia, contending that upon the grounds set out in the notice of contest the said John S. Barbour was not, and the said contestant S. P. Bayley was, duly elected said Representative for said district and State.

The notice of contest contained six separate and distinct grounds and charges.

The second and third grounds were, that large numbers of persons who were not qualified according to law were permitted to vote at the election held for said Representative on November 2, 1880, and that such illegal votes were received, counted, and returned for the said John S. Barbour for Representative.

The fourth allegation was that large numbers of lawful voters were prohibited from voting, which said votes, had they been received, would have been cast for the contestant.

The fifth and sixth allegations charged that large numbers of lawful voters, by intimidation and gross frauds and abuses, were prevented from casting their votes for the said contestant.

In disposing of these grounds of contest, it is only necessary to state that there was no evidence whatever offered in support of them, and that there was no contention before the committee that they were in point of fact true. Having been abandoned, it appears from the record that of the 27,441 legal votes cast at said election, the said Bayley, contestant, received only 9,177. This leaves for the committee's consideration the sole question raised by the first ground set out in the notice of contestant, to wit:

That the said John S. Barbour, at the time of said election for such Representative, was ineligible and disqualified to be the Representative of said district and State.

The said ineligibility and disqualification consists in this, that the said John S. Barbour was not at the time aforesaid either a *bona fide* resident or inhabitant of said State of Virginia.

When the contestant abandoned the grounds of contest above set forth, he at the same time relinquished all right or claim to the seat of

the sitting member, even in the event that the same should be declared vacant on the ground of the constitutional ineligibility and disqualification of its occupant.

In the case as made up and presented to the committee, the contestant has only that interest in it that is possessed by every other elector in the district; yet there is no petition or memorial from any body of the electors of the district addressed to Congress setting forth any objection to the right of Mr. Barbour to a seat in the House, to which he has been elected, on the alleged ground that he is not possessed of those qualifications which, by the Constitution of the United States, are indispensable to the holding of a seat in Congress.

Both upon principle and precedent the committee think that those questions which relate solely to the qualifications of members of Congress should be more appropriately brought to the attention of Congress by a memorial of the electors who are alone interested in the result. This practice could work no wrong, and would be productive of much good in preventing troublesome and gratuitous contests which might be inspired by motives other than the interests of the electors.

The subject being one of great importance, however, they have considered it on the testimony adduced, which is solely upon the question of the qualification of Barbour under the Constitution of the United States.

In support of the voluntary contest thus made by S. P. Bayley against the eligibility of the sitting member, he proceeded to take the testimony of three witnesses in the city of Alexandria, namely, George Duffey, Augustus F. Idensen, and Jno. S. Barbour, the last-named being the returned member himself, the object being to show that the said Barbour was not a *bona fide* inhabitant of the State of Virginia, as required by the Constitution of the United States. Mr. Duffey was the commissioner of revenue for the city of Alexandria, and Mr. Idensen was clerk to the State assessor of that city for the year 1880. The contestee, Barbour, on his own behalf, took no testimony, but submitted the case upon the evidence of the contestant.

Duffey testifies that it was his duty to assess all real and personal properties, incomes, licenses, &c., also the annual capitation tax prescribed by law upon all male inhabitants of the State abiding in the city of Alexandria over twenty-one years of age at the time of the assessment.

That the said Barbour had no real property in the city of Alexandria, but that the property of his wife situated there was assessed to her on the property books as an Alexandrian, the law requiring the residence of the owner to be given. Idensen testifies that this was changed in 1880, when Mrs. Barbour, after the election, was put down as a resident of Washington, D. C., when he, as the assessor's clerk, knew that Jno. S. Barbour was an actual resident in the city, and so stated in his deposition. Mr. Barbour testifies that he was a native of the State of Virginia; had always been a citizen of said State; never claimed to have lived elsewhere in a permanent sense, or to have exercised citizenship in any other State or Territory; that his post-office, business headquarters, residence required by statute for the service of legal process upon him, were all in the city of Alexandria, and within the limits of said State, and that while he had a temporary winter residence in the city of Washington, he had taken a house in Alexandria, with his family, in September, 1880, and was so actually residing at the date of the Congressional election in November, 1880, and subsequently.

The code of Virginia, *ch.* 166, *sec.* 7, which provides for the manner of

serving process against corporations says: "It shall be sufficient to serve any process against or notice to a corporation on its mayor, rector, president, or other chief officer, or in his absence from the county or corporation in which he resides, &c., * * * and service on any person under this section, shall be in the county or corporation in which he resides; and the return shall show this, and state on whom and when the service was, otherwise the service shall not be valid."

Under this statute service of process was habitually made upon John S. Barbour as president of the Virginia Midland Railway, as a resident of Alexandria.

That in July previous to his nomination for Congress he had declined to be listed by the enumerator of Washington City as an inhabitant of that city, but then stated that he was an inhabitant of Virginia.

That when traveling absent from the State of Virginia, he invariably registered himself as from Virginia.

That at the time of the election and before, he was actually residing in Alexandria without any intention of removing therefrom permanently. It was contended on behalf of the contestant that although John S. Barbour was an actual resident of the city of Alexandria, Va., within said district, at and before the time of the election, he was not an inhabitant within the meaning of the constitutional requirements to qualify him as a member of Congress.

In support of this view the case of John Bailey (Clark and Hall's contested election cases, p. 411) was relied upon. Bailey was chosen a member of Congress from the State of Massachusetts on the 8th day of September, 1823, at which time he was actually residing in the city of Washington, in the capacity of clerk in the State Department. On the 1st day of October, 1817, Bailey, who was at that time a resident of Massachusetts, was appointed by the Secretary of State a clerk in the Department of State, and immediately repaired to Washington, and entered on the duties of his appointment. He continued to reside in the city from that time with his family—having in the mean time married—in the capacity of a clerk in the Department of State, until the 21st day of October, 1823, subsequent to the date of his election, at which time he resigned his appointment. Upon the petition of certain citizens and electors of the Norfolk district in the State of Massachusetts, the question of his eligibility and qualification under the Constitution was brought to the attention of Congress, and it was contended on behalf of Bailey that although he had been from the time of his appointment in 1817 up to and subsequent to his election to Congress a resident of Washington, he had retained his citizenship in the State of Massachusetts, and by virtue of this citizenship it was contended that within the constitutional requirement he was qualified as a member of Congress from that State. The committee considered at some length the distinction between citizenship and inhabitancy, and their report, which was approved by Congress, against the eligibility of Bailey as a Congressman was based upon these distinctions. It was held that being a citizen of the State, granting that Bailey was such, but residing permanently elsewhere did not satisfy the constitutional requirements necessary to make him eligible as a member of Congress. The committee say that "the word 'inhabitant' comprehends a simple fact—locality of existence; that 'citizen' comprehends a combination of civil privileges, some of which may be enjoyed in any of the States of the Union."

The case of Barbour differs materially from that of Bailey in this, that not only had Barbour continued to be a citizen of the State of Virginia, but that he had always held his legal residence in said State as herein-

above recited. Added to that was the fact that previous to his election as a member of Congress, from the eighth Congressional district of Virginia, he had removed to said State and had become an actual inhabitant thereof, residing there without any intention of permanently removing, whereas Bailey was, when elected, an actual inhabitant and resident of the District of Columbia, not claiming a residence or inhabitancy actually in the State of Massachusetts, except constructively through and by virtue of his citizenship, which he contended he had never renounced in said State.

It was contended further, by the contestant in this case, that the elective franchises in Virginia was one of the essentials of inhabitancy, and that under the local laws of the State of Virginia a residence of twelve months within the State, and a residence of three months next preceding the election in the county, city, or town, where the person offers to vote, was a requisite qualification of an elector, and that with these requisite qualifications a registration was also necessary; that John S. Barbour had never registered as a voter, and therefore, he was not an inhabitant within the contemplation of the Constitution.

It was contended that the word "inhabitant" embraces citizenship, that an inhabitant must be entitled to all the privileges and advantages conferred by the laws of Virginia, and that the elective franchise alone confers these, therefore an inhabitant must have a right to vote, and further, that the burdens of inhabitancy were predicated upon the right to vote.

In answer to this position, without deeming it necessary upon the facts of this case to enter into the constitutional signification of inhabitancy, it is only necessary to say that the right to vote is not an essential of inhabitancy within the meaning of the Constitution, which is apparent from an inspection of the Constitution itself. In Article I, section 2, the electors for members of Congress "shall have the qualifications requisite for electors of the most numerous branch of the State legislature," but in the succeeding section, providing for the qualifications of members of Congress, it is provided that he shall be an inhabitant of the State in which he shall be chosen. It is reasonable to conclude that, if the elective franchise was an essential, the word "elector" would have been used in both sections, and that it is not used is conclusive that it was not so intended.

In the case of Philip Barton Key (Clark and Hall's Contested Election Cases, p. 224), who was elected a member of Congress from Maryland on the 6th day of October, 1806, and who was seated as such, the facts are these: Mr. Key was an inhabitant of the District of Columbia, and in November, 1805, he purchased about one thousand acres of land in Montgomery County, Maryland, about fourteen miles from Georgetown; that some time in the summer of 1806 he caused a dwelling-house to be erected on said lands, into which he removed with his family on the 18th September, 1806; that he was residing in said house, which was only partially completed, from that time up to the 20th of October, 1806, when he removed back with his family to his seat in the District of Columbia, where he remained till about the 28th of July, 1807, when they again removed to his estate in Montgomery County, where they remained till the 20th of October, 1807, when they again returned to his seat in the District of Columbia. He was only living and inhabiting within his said district in Maryland for the period of little upwards of a month, during which time, to wit, on the 6th day of October, 1806, the election took place, at which he was returned as a Representative to Congress from said district. Notwithstanding this short residence,

and the fact that Mr. Key, before his removal to Maryland, had been confessedly a citizen and inhabitant of the District of Columbia, it was decided by Congress that he was eligible and qualified under the Constitution as a member of Congress.

In further answer to the position that the elective franchise is necessary to qualify one as a member of Congress, it will appear from an inspection of the constitution of Maryland of 1776, and in full force in 1806, when Mr. Key was elected a member of Congress from Maryland, that the qualifications for electors for the most numerous branch of the legislature "shall be freemen above 21 years of age, with a freehold of fifty acres of land in the county in which they offer to vote, and residing therein, and all freemen having property in this State above the value of thirty pounds current money, and having resided in the county in which they offer to vote one whole year next preceding the election." Therefore, Mr. Key, who was deemed qualified as a member of Congress, was not an elector of the State of Maryland, and could not vote at the election at which he was returned as a member.

Without resting this case, however, upon these grounds, the committee are satisfied from the facts of the case, as developed in the testimony, that John S. Barbour was, in point of fact, before and at the time of his election as a member of Congress from the eighth Congressional district of Virginia, an actual inhabitant of the State, enjoying all the rights and subject to all the burdens as such, and that having been duly elected as a member of Congress from said district he is entitled to his seat.

Resolved, That John S. Barbour was duly elected and is entitled to his seat as a member of the Forty-seventh Congress from the eighth Congressional district of the State of Virginia.

JOHN T. WAIT.
JAMES M. RITCHIE.
SAMUEL H. MILLER.
LOWNDES H. DAVIS.
SAMUEL W. MOULTON.
W. H. CALKINS.
A. A. RANNEY.
WM. G. THOMPSON.
F. JACOBS, JR.
GEO. C. HAZELTON.
G. W. JONES.

C

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1041.

TO GRANT RIGHT OF WAY FOR RAILROAD PURPOSES THROUGH THE LANDS OF THE UNITED STATES POWDER DEPOT, NEAR DOVER, N. J.

APRIL 13, 1882.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. GEORGE R. DAVIS, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 2800.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 2800), to grant the right of way for railroad purposes through lands of the United States, having had same under consideration, submit the following report:

This bill grants the right of way, 100 feet wide, to the Central Railroad Company of New Jersey, through the lands of the United States included in the Piccatinny powder depot, near Dover, N. J., for the construction of a railroad. The bill also provides that the location of the right of way through said lands, and the regulations for operating said road, shall be approved by the Secretary of War. Also, that whenever said right of way shall cease to be used for said railroad purposes, same shall revert to the United States, and that the right to repeal, alter, or amend the act is reserved to Congress. Your committee, upon examination, find that the construction of this road through the government lands at this place was contemplated by the government when the site for the powder depot was selected, and that it will be to the benefit of the United States. The passage of the bill is recommended by the Chief of Ordnance, U. S. A., with an amendment, which recommendation is concurred in by the Secretary of War. Your committee recommend that the bill be amended as follows:

In line (14) fourteen, after the word "works," insert the words:

Provided, also, That such sidings, tracks, switches, and leading stations as may at any time be required by the Secretary of War shall be promptly provided by said railroad company, and that such stoppage of trains, and generally such facilities and privileges as the United States may desire for the shipment of materials of war at any time shall be provided by said company.

The following letters from the Chief of Ordnance, U. S. A., and from the Secretary of War, have been received in response to inquiries made by the committee:

WAR DEPARTMENT,
Washington City, January 28, 1882.

SIR: I am in receipt of the letter of the Committee on Military Affairs of the 17th instant, inclosing, for recommendation, House bill 2800, to grant the right of way for railroad purposes through the United States lands at the Piccatinny powder depot, near Dover, N. J., and in reply beg to invite your attention to the inclosed report of

the Chief of Ordnance on the subject, and to state that the bill, amended as suggested by the Chief of Ordnance, meets the approval of this department.

Very respectfully, your obedient servant,

ROBERT T. LINCOLN,
Secretary of War.

Hon. THOMAS J. HENDERSON,
Chairman Committee on Military Affairs, House of Representatives.

ORDNANCE OFFICE, WAR DEPARTMENT,
Washington, January 26, 1882.

SIR: I have the honor to return the bill (H. R. 2800) "to grant the right of way for railroad purposes through the lands of the United States powder depot, near Dover, N. J.," with the following report:

I recommend that on line 14, after the word "works," that the following proviso be added, viz:

"*Provided, also,* That such sidings, tracks, switches, and loading stations as may at any time be required by the Secretary of War, shall be promptly provided by said railroad company, and that such stoppage of trains, and generally such facilities and privileges as the United States may desire for the shipment of materials of war at any time, shall be provided by said railroad company."

The passage of this bill, and the construction of a railroad through these lands, will connect the powder depot with the railroad system of the country. This connection was contemplated when the site was selected and the land purchased, as being an economical necessity in the cheap transportation of material during the construction of the magazines and other buildings, and for the prompt and safe distribution of gunpowder after the depot is in operation.

The distance of boundary line from the nearest railroad is over three miles, through a rather difficult country for hauling, at a cost of over one dollar and fifteen cents per ton, which increases the expense of the building operations at the depot. The Central Railroad Company of New Jersey are willing to extend their road up to and into the depot this spring, for the convenience of the United States, provided the right of way be granted through the lands as provided for in this bill, and of which it can avail itself to make railroad connections beyond the reservation, thus bringing the depot in direct connection with all parts of the country.

I consider this a fair and liberal proposition on the part of the railroad. The line of the railroad will be located on the side hills bordering the tract, at a very safe distance from all buildings, and effecting no damage whatever to the value of the government property.

I respectfully recommend the passage of this bill as herewith amended.

Very respectfully, your obedient servant,

S. V. BENÉT,
Brigadier-General, Chief of Ordnance.

The Hon. SECRETARY OF WAR.

Your committee therefore report said bill (H. R. 2800) back with recommendation that it pass as amended.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1042.

CHRISTOPHER P. DAVIDSON.

APRIL 13, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DEZENDORF, from the Committee on Naval Affairs, submitted the following

REPORT:

[To accompany bill H. R. 689.]

That having given said bill due consideration, they are of the opinion that the said Christopher P. Davidson should be pensioned under section 4756 of the Revised Statutes of the United States, and recommend the passage of the bill.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1043.

FRANK S. SOWERS.

APRIL 14, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DAWES, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 5808.]

The Committee on Invalid Pensions, to which was referred the bill (H. R. 3747) granting a rerating of pension to Frank S. Sowers, has had the same under consideration, and begs leave to submit the following report:

Sowers was discharged on account of disability June 2, 1863, and applied for pension September 21, 1878. His claim was allowed April 9, 1879, at one-fourth of total from date of discharge, and at three-fourths of total from November 13, 1878, the date upon which claimant was first examined by a Pension-Office surgeon. He immediately applied for increase, and was allowed total pension $17 per month, in accordance with the rank, that of first lieutenant and quartermaster of the Third Ohio Cavalry Volunteers. The disability for which pensioned is chronic diarrhea. He asks that he be allowed total pension from date of discharge.

Under the practice of the Pension Office, a less rating than that made by the first medical examination is usually given in cases of progressive disability for the period intervening between the date of discharge and the date of the first medical examination. The surgeon who first examined this soldier rated the disability at total, while the examination under the claim for increase, following closely upon the original adjudication of the case, showed a still greater disability.

It would seem from the evidence on file that the pension should have been rated higher, and the committee therefore recommend the passage of the accompanying substitute for the bill H. R. 3747, which authorizes the Secretary of the Interior to rerate the pension in his discretion. The necessity for the passage of the bill exists in the fact that the Secretary has the power to rerate pensions only in cases of gunshot wounds.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1044.

ISADOR ROHRER.

APRIL 14, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DAWES, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1237.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1237) granting a pension to Isador Rohrer, having had the same under consideration, beg leave to submit the following report:

It appears from the evidence in the case filed in the Pension Office that the petitioner was a private in Company H, Second Illinois Light Artillery; enlisted September 15, 1861, and discharged July 29, 1865, and filed declaration for pension October 12, 1869, alleging "disability from an injury to left shoulder by the fall of his horse while on the Cumberland River, Tennessee, April 20, 1864. He was on his post in the night-time, his horse stepped in a hole and stumbled, throwing claimant over his head and injuring him as above, producing partial paralysis." In affidavit filed November 16, 1872, "that he was treated for injury by hospital surgeon at Clarksville, Tenn.; was not in general hospital."

The Pension Office (May 22, 1874) rejected the claim on the ground—

No record of alleged injury; inability to furnish the testimony of a surgeon or medical testimony showing condition at date of discharge.

The Adjutant-General reports:

Roll for May and June, 1862, covering date of alleged disability, says: "Absent on sick furlough." * * *

The Surgeon-General reports:

The regimental register for Company H not on file.

The petitioner's captain, Henry C. Whitemore, says, in affidavit filed November 16, 1872:

Claimant, while in the line of his duty, while on a scouting expedition on White Oak Creek, between Cumberland and Tennessee Rivers, on or about August 8, 1864, was accidentally thrown from his horse, falling on his left shoulder, and receiving a severe injury of his shoulder at that time.

Lieut. James Eckdale confirms this statement, and also says when he first knew claimant in the Army he was in good health and sound in body to all appearance.

Edward Clapham, M. D., late surgeon Seventh Michigan Veteran Volunteer Infantry, in affidavit (filed November 16, 1872), says:

I have examined claimant. He is still suffering from an injury received on a scouting expedition on White Oak Creek, between the Cumberland and Tennessee Rivers; his horse getting his foot into a hole, he was thrown violently on his left shoulder,

giving rise to but slight inconvenience at the time, but proving subsequently much more painful, and eventuating in partial paralysis of the left shoulder arm, and undoubted injury to the circumflex nerve (part of the brachial plexus of nerves), which chiefly govern the movements of the deltoid muscles and shoulder arm; and, having spent all his means in medical advice, presents himself for admission into the Soldiers' Home, for which I cordially recommend him as a very proper recipient of the bounties of the institution.

ED. CLAPHAM,
Formerly Surgeon Seventh Michigan Veteran Volunteers, now Professor of Anatomy, Medical College, Keokuk, Iowa.

J. L. Wood, M. D. (filed April 23, 1873), testifies he "has treated claimant for injury to left arm and shoulder for nine months during the year 1872."

Thomas McEwen, M. D. (filed December 15, 1873), says that "during the year 1873 he has examined claimant, and finds that he has diseased shoulder, giving rise to neuralgia, which is aggravated by damp weather. His disability is of a permanent nature."

A. B. Allen, M. D. (filed December 15, 1873), says that "during the year 1873 he has treated claimant for neuralgia, and believes that the predisposing cause is from wounded trunk of some of the nerves of the left shoulder; that shoulder is much smaller than the other."

The petitioner states (filed April 28, 1873):

All physicians to whom he applied for treatment having told him that it was unnecessary, that he could not be cured, excepting Dr. Wood. That after his discharge Dr. Cooper treated him for a short time for his injury, and said he could not be cured. He has made every effort to find Dr. Cooper, but cannot do so.

The petitioner has been twice before the examining surgeons of the Pension Office, and their certificates are included here, viz:

J. B. Samuel, M. D., Orleans, Morgan County, Illinois, June, 1872, who says:

He is three-quarters incapacitated; disability uncertain as to time; his present condition was caused by a fall from a horse, the left shoulder becoming badly strained, which has resulted in the injury of upward and backward motion of the arm, which renders him unable to do hard work without producing considerable pain, and increasing in some degree the paralysis, which is only slight; the arm has lessened somewhat in size.

Joseph O. Hamilton, M. D., ex-surgeon, Jerseyville, Jersey County, Illinois, April 1, 1874, says:

One-half disability; indefinite duration; rheumatism of the deltoid trapezius and supraspinatus, causing stiffness and debility of the above-named muscles.

It may be well to note here the fact that the petitioner says he was "treated by hospital surgeon at Clarksville, Tenn.," and the Surgeon-General reports, "The regimental register for Company H not on file." It is therefore very probable that the claimant's statement is correct.

Your committee are of the opinion that this is a meritorious case. The claimant's allegations are substantiated in every important particular. While he does not prove clearly continuous treatment from time of discharge to the time he was examined in 1872 and 1873, by Dr. Wood and Dr. McEwen, yet they found him suffering from the identical injury received in the service, aggravated by time, and more severe than when treated for it originally. Dr. Samuels, ex-surgeon, Pension Office, finds it still existing and rates him for it.

Your committee therefore report favorably upon the claim and recommend the passage of the bill (H. R. 1237) granting a pension to Isador Rohrer.

Amended as follows, viz: To strike out of lines 4 and 5 the words "to date from the time of his discharge from the service."

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1045.

ALBAN H. NIXON.

APRIL 14, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MATSON, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 5703.]

The Committee on Invalid Pensions, to whom was referred the bill H. R. 5703, have had the same under consideration, and beg leave to report as follows:

Alban H. Nixon enlisted as a private in the Third Regiment of Pennsylvania Volunteers on the 18th day of April, 1861, and was honorably discharged from that regiment on the 30th day of June, 1861. He immediately began recruiting for the Eighty-fourth Regiment, Pennsylvania Volunteers, and enlisted as a private in that regiment. On the 3d of March, 1862, he was made second lieutenant of that regiment; subsequently he became first lieutenant, and on the 3d day of May, 1863, he was promoted to captain. He was honorably discharged from this service on the 15th day of November, 1864, having lost his arm at Coal Harbor, Va., on the 1st day of June of said year. While serving as above he participated in seventeen battles, and was seven times wounded; twice severely. He lost his left arm, as above stated, at the battle of Coal Harbor, and it was first amputated on the 9th of July, 1864. A second operation was performed on the 10th day of October, 1864, and on the 15th day of February, 1865, Dr. D. W. Bliss, of Washington, D. C., performed still another operation, and took one of the bones of the forearm away from the elbow-joint, which leaves the elbow-joint perfectly stiff and useless. A wound was received by him at the battle of Mine Run, Va., which, to a considerable extent, disables his right arm.

This soldier is now pensioned at $20 per month. He asks for an increase to $36 per month. The committee believe he ought to have $30 per month, and recommend that the bill be amended by striking out the word "six" in line 6 of said bill, and then ask that it pass.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1046.

THOMAS McMANNUS.

APRIL 14, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MATSON, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 4966.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4966) for the relief of Thomas McMannus, have had the same under consideration, and beg leave to report as follows:

Thomas McMannus was a private soldier in the Third Regiment of Pennsylvania Artillery (One hundred and fifty-second Volunteers), and as such made an excellent record. At the time of his enlistment he was a person of unusual physical strength and vigor. He is now, and has been ever since his discharge, totally disabled for the performance of manual labor, and has been the object of the charity of two sisters, who are illy able to support him. He was seriously hurt while in the service of the United States; and his application for a pension was refused upon the ground that he was not in the line of duty at the time he received the injury. His disability is clearly traceable to this injury received while in the service; and the proof establishes every fact necessary to entitle him to a pension, beyond any possibility of dispute, except the fact that he was in the line of duty. Here there is a conflict of evidence. At the time he was injured he was on detached service with what was known as Graham's Naval Brigade; this soldier having been detailed because of his great physical strength. At the moment of the injury there was no one present but his assailants. He was struck upon the head with some hard and heavy weapon, and knocked senseless to the ground; and afterwards beaten and kicked so as to produce the permanent injury, as stated above. This happened in the city of Fredericksburgh, Va., in the early part of March, 1865. This naval brigade at that time made a raid upon said city and captured a large quantity of tobacco, and loaded it upon the boats. After this was done, this soldier, while in the said city, was attacked, as aforesaid, and received the serious injuries which have been described. The evidence as to his being in the line of duty is somewhat conflicting; but the most reasonable statement, and that upon which your committee prefer to rely, is that made by one J. W. Hague, who makes his from a diary kept at the time, and who did not testify in this soldier's behalf until since the Pension Office rejected this claim. He states that the men, after they had loaded the tobacco they had found, upon the boats, were detailed to go over the city to look for other tobacco which was supposed to be concealed there, and that McMannus was so engaged at the

time he received said injury. With this view of the evidence, which, to some extent at least, reconciles the conflict in the testimony, your committee do not hesitate to report favorably upon this bill, and recommend that it pass with this amendment: strike out all after the word volunteers, in line 6 of said bill, and insert these words: *subject to the provisions and limitations of the pension laws.*

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1047.

WILLIAM M. MEREDITH.

APRIL 14, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MATSON, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 2877.]

The Committee on Invalid Pensions, to which was referred the bill (H. R. 2877) for the relief of William M. Meredith, has had the same under consideration, and begs leave to submit the following report:

Petitioner makes oath that on or about the 24th day of June, 1879, he executed a declaration for invalid pension before the clerk of the court of Marion County, Indiana, which he intrusted to his attorney, Benjamin D. House, of Indianapolis, Ind., to be mailed to the Commissioner of Pensons.

Benjamin D. House swears that William M. Meredith intrusted him with an application for invalid pension for mailing to the Committee on Pensions; that on the following day the same was inclosed by him in an envelope, securely sealed, and plainly directed to Hon. John A. Bentley, Commissioner of Pensions, at Washington, D. C. Affiant remembers his action in the matter from the fact that the said William M. Meredith was unable to walk at the time, except by the aid of crutches.

This declaration, however, never reached the Pension Office, and its loss was not discovered by the claimant until after the expiration of the limitation for the filing of pension claims under the arrears act.

The Commissioner of Pensions, in a letter to this committee, states that testimony has been brought before his office, satisfactory to him, that Meredith's declaration was mailed in sufficient time to have reached his office prior to July 1, 1880, had it not been lost in the mails.

Meredith was captain of Company E, Seventieth Indiana Volunteers, and claims pension on account of hernia contracted in the service. So far as lay in his power, he complied fully with the requirements of the law by properly executing a declaration for pension and placing the same, through his attorney, in the possession of the government for safe delivery at the bureau charged with its consideration, in time sufficient to carry with it title to arrears under the provisions of the act of March 3, 1879. Its loss in the mails was through no fault of the claimant, but must be charged directly to the government. Unless the relief asked for be granted, the claimant will be deprived of the pension for the period intervening between the date of his discharge and the date upon which a second declaration reached the Pension Office.

The committee is clearly of opinion that the execution and mailing to the proper office of a declaration for pension by the petitioner, as well as its loss while in the hands of the government, is fully established, and that such loss should work no hardship on him, and therefore reports favorably on the bill, and asks that it do pass.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1048.

JACOB HUMBLE.

APRIL 14, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MATSON, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 2256.]

The Committee on Invalid Pensions, to whom was referred the House bill No. 2256, have had the same under consideration, and report as follows:

Jacob Humble was a private in Company F, Sixth Indiana, and served a three years' enlistment as such. Near Atlanta, Ga., he was taken prisoner in July, 1864, and was confined at Andersonville and in other prisons until March, 1865, when he was paroled and ordered to the prison camp at Camp Chase, Ohio. While there he met with a severe accident by the falling of his bunk, situated in the barracks at said camp, by which his spine was injured, and from which he has never recovered. For six years past he has been unable to stand and has not left his bed. On or about the 1st day of August, 1879, he made out an application for an invalid pension on account of said injury, and delivered the same to his neighbor, Dr. William Williams, to be by him delivered to his attorneys, McKnight & Johnson, at Spencer, Ind., with instructions to file the same at once in the Pension Office. These papers did not reach the Pension Office, and the said Humble was not informed of that fact until in the year 1881, about two years after he had, as he supposed, complied with the requirements of the law by which he would be entitled to the arrears.

Humble files his affidavit, stating that he made out his application on or about the 1st day of August, 1879, and delivered the same as aforesaid to Dr. William Williams to be delivered by him to his aforesaid attorneys at Spencer. Franklin R. Drake swears that he saw said Humble at said time so deliver said application to said Williams. Dr. Wiliams swears that he did on said day so deliver the said application with said instructions; that he saw one of said attorneys, Alex. McKnight, at once place said declaration in an envelope, seal it, and start in the direction of the post-office, and in a few minutes thereafter the said McKnight informed him that he had mailed the same. McKnight testifies that he did at that time duly stamp and regularly mail said declaration as he was instructed to do; that it was plainly directed to the Commissioner of Pensions, Washington, D. C., and that neither he nor his partner were informed that the same had not reached the Commissioner aforesaid until in the year 1881.

It appears to be as certain as human testimony can make any fact that this declaration was lost in the mails in some way; that the sol-

dier was not in any fault; that he complied with every requirement of the law; that it was then notorious that the adjudication of pension cases was greatly delayed, and for that reason he might rightly have remained silent for so long a time, expecting that his claim would be settled in due course of business in said office when it could be reached; that this soldier was then in such a condition of physical health that he could not leave his bed, and in fact so remains. For all these reasons your committee believe that he is entitled to the relief he asks, and therefore report the accompanying substitute bill, and recommend that it do pass.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1049.

THEODORE J. SAMUELS.

APRIL 14, 1882.—Laid on the table and ordered to be printed.

Mr. MATSON, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 3185.]

The Committee on Invalid Pensions, to whom was referred the House bill No. 3185, have had the same under consideration, and beg leave to report as follows:

This soldier first enlisted in the Second United States Artillery in 1854, and re-enlisted in 1859. He was wounded in battle in 1862, and on account thereof is now pensioned at the rate of $4 per month. At the time of filing his original claim for pension he also alleged an injury to the index finger of his right hand, occurring in the line of duty. He was refused a pension on this account because the injury happened prior to the 4th day of March, 1861. In his petition the soldier alleges that the injury occurred in February, 1861. The action of the Pension Office was therefore manifestly right, and this committee see no good reason for setting it aside, and therefore report adversely upon the said bill, and ask that it lie upon the table.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1050.

LEWIS LEWIS.

APRIL 14, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. JOYCE, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 3761.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 3761) granting a pension to Lewis Lewis, beg leave to make the following report:

Lewis Lewis was a private in Company F, Seventy-eighth Regiment Pennsylvania Volunteers, and claims a pension on the ground that he received a bayonet wound in the groin, which caused permanent hernia, while in the line of duty at Nashville, Tenn., September 28, 1862, said wound being inflicted in a quarrel with the provost guard at that place. The ground on which the application was rejected by the Pension Office was that there was not sufficient evidence to show that the disability was incurred strictly in the line of duty.

Dr. Charles B. Gillespie, who was captain of Company F, Seventy-eighth Regiment Pennsylvania Volunteers, in his sworn statement before Special Agent M. C. Fosnes, at Freeport, Pa., on June 2, 1881, says:

> Lewis was sent up town by Lieutenant Torbett to post some letters for members of the company. He asked for a pass, but the lieutenant told him it was not necessary, being train guard, and he therefore started without a pass. He had performed his errand and was returning to the depot, when accosted by a provost guard belonging to the First Pennsylvania, who demanded his pass. He repeated what Lieutenant Torbett had told him in regard to a pass not being necessary. The provost guard then attempted to arrest him. He resisted or tried to get away, and a scuffle ensued in which the guard knocked him down and stabbed him in the abdomen.
>
> This was the version of the affair told affiant the next day by members of the company, and which he always believed to be true, but cannot say who told him.

In regard to the claim that the applicant was suffering from rupture before entering the Army, Dr. Gillespie says that on the day following the wounding of Lewis he visited him in the hospital and found him suffering from a punctured wound in the abdomen. The wound had been sewed up, so that affiant could not testify as to the depth, &c., but he examined the man carefully, and is absolutely certain that he was free from hernia at that time. When Lewis returned to his company he complained of his wound, and on examination it was found that his bowels protruded through the gash made by the bayonet, and that there was a well defined ventral hernia then existing.

There are other affidavits of a similar nature in regard to the wound-

ing of Lewis, one stating, however, that he was probably drunk at the time of the fuss.

M. C. Fosnes, special examining agent, says:

This is one of those cases in which the testimony of eye-witnesses is not obtainable.

And further on in his report:

The applicant is a simple and ignorant man. Everybody speaks of him as honest and conscientious, and that is the way he impressed me. Indeed, I consider him both morally and mentally incapable of telling a lie and sticking to it under cross-examination. I questioned him very fully and carefully, but he showed no hesitation, uncertainty, or confusion at any time. So far as I could judge, the man told the truth.

The applicant is now an old man, being 67 years of age, and is entirely unable to earn a living for himself and wife.

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1051.

JESSE F. PHARES.

APRIL 14, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. CABELL, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill S. 915.]

The Committee on Invalid Pensions, to whom was referred the bill (S. 915) granting a pension to Jesse F. Phares, have carefully examined the same, and report favorably the Senate report in this case:

"That they find the facts of the case are fully stated in the report of the Committee on Pensions made to the Senate during the second session of the Forty-sixth Congress (S. R. 228), but that they do not agree with the conclusion arrived at in that report. It also appears that the Senate, at the same session, disagreed with the report of the committee, and passed the bill granting a pension to the claimant.

"Your committee recommend the passage of the bill.

"So much of the Senate report in which the committee concur as states the facts in this case is as follows:

"The facts in the case are few and clearly proven. At the outbreak of the rebellion the claimant was a resident of Randolph County, in the State of Virginia; that he entered the service of the government about the month of June, 1861, as a scout, serving under Generals McClellan, Milroy, Kelly, and others, and by reason of his intimate knowledge of the country, and his intelligence, zeal, and daring, rendering very valuable service to the Union cause. In April, 1863, the Confederate General Imboden advanced upon the Union forces at Beverly, W. Va., commanded by Col. George R. Latham, commanding Fifth West Virginia Cavalry. In the advance, Phares, who was then on duty outside the Union pickets, was surprised by a party of Confederate troops, and refusing to halt when ordered was shot through the body, but retained his saddle until he reached the Union lines. The following are extracts from the affidavits of Col. George R. Latham, Fifth Regiment West Virginia Cavalry (Union), and of Lieut. Col. Elihu Hutton, Twentieth Regiment Virginia Cavalry (Confederate).

"Colonel Latham says:

"'On the 23d day of April, 1863, I was in command of the Federal forces stationed at Beverly, W. Va., and said Phares, then scouting outside my picket, was cut off by a party of the enemy then advancing under General Imboden to attack me, and in endeavoring to dash past them was badly wounded by a musket-ball passing through his body, through the lungs, from the effects of which he is almost wholly disabled, and is failing rapidly in strength and general health. Though so badly wounded, he retained his saddle until he reached my pickets, and gave the first intimation that I had of the advance of the enemy. I was compelled to evacuate Beverly, and Phares fell into the hands of the enemy. He had at the time several thousand dollars' worth of goods and personal property, all of which was taken from him, leaving him and his family in very destitute and distressed circumstances, from which they have been unable to recover.'

"Lieutenant-Colonel Hutton says:

"'During the late civil war I was lieutenant-colonel of the Twentieth Regiment Virginia Cavalry (Confederate service), and served principally on the West Virginia frontier, where it was well known who were acting as scouts and guides for the Federal forces in that vicinity, and said Jesse F. Phares was well known to be one of the most active and dangerous scouts and guides operating against us. His knowledge of the country was thorough; he was smart, daring, and vigilant, and capable of great endurance. In consequence of the knowledge we possessed of this fact, every possible exertion was made on our part to capture him, but without success until the 23d day of April, 1863, when General Imboden advanced upon the Federal forces then stationed at Beverly, commanded by Col. George R. Latham.

"'In order to cut off all scouts that might be outside the Federal pickets, we sent by night a party of men through the woods to gain the road near the outside Federal picket post before daylight on the morning of April 23, 1863. About daylight said Phares, who was thus cut off, approached said party of men on horseback and was ordered to halt, but dashed forward, and past the men, when he was fired upon by them, one ball taking effect, passing through his body—through the lungs—from the effects of which he is now almost wholly disabled. He retained his seat, however, until he reached the Federal picket and gave information of our advance.

"'Beverly was evacuated the same day by the Federal forces and occupied by the Confederates, and Phares fell into our hands.

"'He was cared for by me personally about fifteen days, but a large amount of goods, general merchandise, groceries, &c., household furniture, and other personal property, to the value of several thousand dollars, fell into Confederate hands and was used or destroyed by them, leaving him and his family in very destitute circumstances, in which condition, principally in consquence of his disability, they remain to this time. He has four children living, and one, his oldest, a daughter, died of consumption in 1870, induced by hardships and exposure, and his wife is worn down by care and labor.

"'Said Phares is about 43 years of age, and has been for several years failing rapidly in physical strength in consequence of the wound above referred to.'

"J. R. Blair, an examining surgeon for the Pension Office in the State of West Virginia, certifies, under date of December 24, 1879, that he has carefully examined Phares, and finds 'that his left hip was entered by a musket-ball, which passed upward through the region of the lower part of the left lung and out near the stomach. The effect of the wound is to weaken and partially paralyze the entire left side, and, in my judgment, produces at least a two-thirds disability, which will increase.'"

The Senate bill and report are adopted by the Committee on Invalid Pensions, and reported to the House with the recommendation that said Senate bill pass.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1052.

MARGARET KEARNS.

APRIL 14, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. PARKER, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1103.]

This claim was before the Forty-sixth Congress, and was reported favorably upon by the Committee on Invalid Pensions. Your committee adopt that report, which is as follows:

It appears from an examination of the papers in the case on file in the Pension Office that the petitioner is the mother of James Kearns, sergeant Company G, Ninety-fourth New York Volunteers, who died July 20, 1864, at Petersburg, Va., of wounds, at the time serving out a re-enlistment.

The petitioner filed application May 18, 1868, which was rejected November 7, 1871, by the Pension Office, on the ground, "As claimant was not dependent upon her son at his death, the claim is rejected."

There is a long affidavit filed by the claimant, and a large number of persons testify in the case. From them we glean these facts: That at the time of the soldier's death his mother was in a great measure dependent upon him for support, as her husband was, suffering with rheumatism and weak eyes, as shown by L. McKay, M. D., June 3, 1869 who says he has "this day made a careful examination of Dennis Kearns, father of James Kearns, who was a sergeant in Company G, Ninety-fourth New York Volunteers, and who died in the service." Deponent further says that he has attended and prescribed for said Dennis Kearns for over eight years last past; that during said time he has treated said Kearns for fever and ague, rheumatism, and weak eyes—the two latter he is now suffering—and chronic troubles on account of old age and infirmities.

Eliza O. Grady testifies that she has been acquainted with claimant's family over thirteen years, and that before enlistment James Kearns was a shoemaker and worked at his trade, and that she knows of her own knowledge that he contributed what was necessary out of his earnings to the support of his father and mother.

Margaret Ryan, another neighbor, corroborates the evidence of last witness. Mrs. Margaret McNearey and Ann McMeniman, in a joint affidavit, testify substantially to the same facts.

There is an original letter among the papers from the deceased soldier, dated Rappahannock Station, August 18, 1863, addressed—

"Dear parents: This day, by the chaplain of our regiment, I send you $20, by Adams Express."

The soldier's remittances seem to have helped the old people to get a small domicile for their declining years.

In view of the facts as developed by the evidence, your committee believe that the petitioner was in a great measure dependent upon her deceased son, and therefore report favorably upon her prayer, and recommend the passage of the bill (H. R. 1103) granting a pension to Margaret Kearns.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1053.

EMELINE PINK.

APRIL 14, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. PARKER, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 4914.]

The Committee on Invalid Pensions, to whom the bill (H. R. 4914) granting a pension to Emeline Pink was referred, beg leave to submit the following report:

The claimant, Emeline Pink, is the widow of Charles Pink, late corporal of Company B, Sixth New York Heavy Artillery. The deceased soldier was appointed corporal September 15, 1862. He was wounded at the battle of Spottsylvania, Virginia, May 19, 1864, and was mustered out July 3, 1865. He was then transferred to the Veteran Reserve Corps for gunshot wound in the back, the ball entering the right hip, passing inward and backward, and emerging through the upper part of the corresponding nates. In May, 1864, after fatiguing marches and heavy duty for several days, and being exposed to the sun, the deceased was overcome with heat, and his brain became affected. He was also afflicted with noises in the head, pressure upon the brain, and deafness; acted in an abstracted manner and showed symptoms of sunstroke. No improvement appeared in his case, and he died about July 12, 1866. His death was occasioned immediately by being upon the track of the Harlem Railroad, and being struck and killed by a locomotive. At the inquest the jury stated as follows:

> The jury further believes that the said Charles Pink was at the time of the accident laboring under some derangement of mind.

The deceased soldier was in good health and strength when he entered the service. His habits were good, and no indication exists that the accident occurred by reason of intoxication.

The deceased never made application for a pension, and no application has been presented to Congress in behalf of his widow previous to this one.

It is apparent that the accidental death of the deceased was the result of derangement of the mind, arising from the effect of the sunstroke before mentioned, and was the direct effect of the injury received by the soldier while in the line of his duty.

This committee are, therefore, of opinion that the widow should be granted a pension, and recommend the passage of the accompanying bill.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1054.

MARTHA WESTERVELT.

APRIL 14, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. PARKER, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1098.]

Your committee adopts the report made to the Forty-sixth Congress by the Committee on Invalid Pensions, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1098) "granting a pension to Martha Westervelt," having had the same under consideration, beg leave to submit the following report:

It appears from an examination of the papers in the case on file in the Pension Office, before your committee, that the petitioner is the mother of William Westervelt, late a private in Company K, Third New York Cavalry, and who died while a prisoner at Andersonville, Ga., on or about July 23, 1864, as alleged in the mother's application for pension. The application was rejected by the Pension Office June 24, 1869, on the ground, "Soldier not in line of duty when captured (and died when in rebel prison); got drunk on apple-jack; was left on the road by his officers, and captured by the enemy."

The certificate of Capt. Samuel C. Pierce, of claimant's company, says William Westervelt was with his company on a march made about the 7th day of May, 1864, from City Point to rear of Richmond. That on the 10th of May the company was at Coal Fields Station, on the Danville Railroad. That while the company was engaged in tearing up the track and destroying the buildings, the said Westervelt was seized with sudden sickness. That immediately after the track of the road was destroyed the regiment was ordered to move, and there was no means of bringing said soldier with the command, and I was obliged to order him left at a house near the road. This is the only thing I know personally about the case, but I have been informed that said soldier was afterwards seen in prison at Andersonville, Ga., and Florence, S. C., and that he died while in prison.

The Adjutant-General's report says: "Left in the road, by order, on account of drunkenness, near Coal Field, W. Va.

The deceased soldier was enrolled January 5, 1864. The case shows that his intoxication at the time of his capture was his first offense of the kind while in service. He died, leaving no widow, or children, or father surviving him.

The evidence in the case is conclusive that the petitioner was dependent upon the soldier for her support; and she had been supported by him for a long time before he entered the service.

There is positive proof in this case that the deceased soldier was a very steady man previous to his enlistment, and that he was captured just after doing duty (if not at the precise hour), with his comrades, in destroying the enemy's property. He may have succumbed to the insidious effects of "apple-jack" at the time mentioned, but he was proven to be, ordinarily, a very steady man. He was captured, suffered a lingering death as a prisoner of war, and his aged, widowed mother needs, in lieu of his services, his country's bounty to help her declining years.

Your committee conclude to report favorably upon the prayer, and to recommend the passage of the bill (H. R. 1098) "granting a pension to Martha Westervelt."

C

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1055

LAURINDA G. CUMMINGS.

APRIL 14, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. PARKER, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 4345.]

The claimant, Laurinda Garfield Cummings, aged 54 years, is the widow of Gilbert W. Cummings, who was mustered into the service, as colonel of the Fifty-first Regiment Illinois Volunteers, February 14, 1862. He was in action April 30, 1862, and from that date until October 30 was absent on sick-leave. He resigned in 1862.

He was brevetted brigadier-general "for gallant and meritorious services during the operations before and capture of the enemy's forces at Island No. 10, in the Mississippi River."

In March, 1862, said Colonel Cummings, with his regiment, in the line of his duty, marched from Bertrand, Mo., to New Madrid, marching from Sykeston about twenty miles in a drenching rain, and during four days said regiment, with said colonel, were withouttents or cooked food, and exposed to two rain-storms of twelve to fifteen hours each; and during the first ten days of April, 1862, said colonel, with his regiment, went to the Kentucky side of the Mississippi River to intercept the Confederates' retreat from Island No. 10, and again were without equipage or cooking utensils, and passed one night in a cold, drenching rain, and often wading; and after and in consequence of this, said Colonel Cummings became sick, and remained with his regiment sick for some time, and then left upon sick-leave, so much disabled that he had to be transported upon a cot.

Said Colonel Cummings was a well and sound man when he entered the service. He died in March, 1877, of paralysis.

General Eleazer A. Paine states that he commanded the division in which said Cummings acted as brigade commander April, 1862, and that said Cummings was in fact the officer who captured Island No. 10, April 6, 1862, although the surrender was made to another officer. It also appears that said Cummings also suffered other severe exposure about the same date as that above detailed.

The letter of resignation of said Cummings is dated September 12, 1862, and August 1, 1862, the post surgeon, B. M. Vickers, certifies that he had carefully examined said colonel, and found that he had suffered greatly from a long course of fever and dysentery, and that the latter had become chronic, and suffered great general debility, weakness of the spine, and had little use of his lower limbs.

The said Cummings continued to suffer from said debility as long as he lived. He had attacks of fever, continued partial loss of use of the

legs, his spine became affected, and also the head, so as to produce mental derangement; became subject to cerebro-spinal oxis, was unfitted for all manual labor, had several attacks of paralysis, in one of which he died—all of which resulted from the strain and exposure before detailed, in March and April, 1862.

The said Cummings received no pension in his lifetime. His widow receives a pension of $30 per month. She is a confirmed invalid, and testifies that her debility was occasioned by her hard service in taking care of her husband during his aforesaid debility. There is no prospect of her becoming in better health. She has a chronic disease of the spine, and her condition is such that she needs the continual care of an attendant. She has also dependent upon her a daughter of her said husband, who is a partial invalid.

The husband's protracted illness used up the property possessed by him, the applicant is very poor, and the $30 per month is insufficient to support her.

Your committee are of the opinion that, considering the valuable services of the deceased husband, and the long and expensive sickness which he suffered, and especially the fact that he bore that expense himself, without receiving a pension, and the fact that the present disability of applicant is nearly total and is permanent, and was probably occasioned by her labors in taking care of her husband, further relief should be granted to applicant, and they recommend the passage ot the bill, amending the same by striking out the word "sixty," in the seventh line, and inserting the word "fifty" in lieu thereof.

C

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1056.

ELIZABETH T. DUBOIS.

APRIL 14, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. PARKER, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1102.]

The bill in this case provides only for placing the name of the petitioner upon the pension-roll, subject to the limitations of the pension laws. In the second session of the Forty-sixth Congress this application came before the Committee on Invalid Pensions, and the following report was made, viz:

It appears from the evidence in the case in the Pension Office that the petitioner is the widow of T. B. Dubois, late an acting volunteer lieutenant-commander in the United States Navy, who served as follows:

"October 28, 1861, appointed an acting master and ordered to report to Flag-Officer Goldsborough; commanded the Albatross; June 5, 1863, promoted for gallant conduct in battle to acting volunteer lieutenant, still commanding Albatross.

"November 26, 1864, promoted to acting volunteer lieutenant-commander.

"April 21, 1865, detached by Acting Rear-Admiral Thatcher, commanding West Gulf Squadron, and ordered to duty in saving public property from the Milwaukee and Osage, which were sunk by torpedoes in Mobile Bay.

"October 7, 1865, detached and granted leave of absence.

"February 6, 1866, he was honorably discharged, and died December 13, 1874, at Kings County lunatic asylum, New York."

Fleet Capt. E. Simpson, United States Navy, writes to the deceased officer, under date of October 14, 1865:

"Your satisfactory reports about the Althea and Osage are at hand, and orders have been sent for a batch of engineers to report to you for duty on board the Osage; this is on the supposition that you will be able to take command of the vessel that you, and you alone, have rescued from her watery grave. Your orders have not been sent, because I desire the authority of your surgeon before I order you to the trying duty. When the Tritonia returns here I expect her to bring your report as to your physical efficiency, when your orders will be issued."

Admiral H. K. Thatcher, under date of August 10, 1865, writes:

"Your services at Mobile are fully appreciated by me, and will be duly represented to the department."

And again, August 11, 1865:

"You have satisfied yourself that the Osage is your own, and I heartily congratulate you on your success."

The widow's application for pension was filed December 13, 1874, alleging "that in 1865 Capt. Theodore B. Dubois (her husband) fell through the hatchway of the Osage, then lying in Mobile Bay, and that he then broke three of his ribs, and, as has since been shown, injured his brain, and shattered permanently his previously healthful and remarkably vigorous system. That a short time after his accident he apparently regained his health and vigor. During the year in which he resigned from the naval service he secured a half interest in the ship Minetanka, believing himself to be still able to command a vessel. This venture, because of his trouble, which was growing upon him at that time, became a total loss." The petitioner cites other cases of a similar nature, and adduces a number of responsible and reliable witnesses in support of her declaration.

The "brief" in the Pension Office in the case shows that the examiner in the office had allowed the claim at $30 per month, commencing December 13, 1874, the date of officer's death, and $2 per month additional for each child. This seems to have been afterwards changed, and the word "admitted" struck out and "reject" written over

it. Under cause of death, "softening of the brain," is written "rejected by medical division January 31, 1876," and the rejection affirmed by board of appeal.

Dr. R. Lautenbach swears that he was "an acting volunteer assistant surgeon during 1865, and was stationed at Mobile, and while so acting was acquainted with Theodore B. Dubois, who was injured during said year while engaged in raising the Osage, and while suffering from said injuries witness treated him as follows: "At his quarters on the eastern shore of Mobile, Ala., for a fracture of ribs, contusion, and shock, received while raising the monitor Osage. The injury was received between September and October, 1865. The quarters might be called a hospital, as I established a hospital in a house adjoining his quarters. This hospital was kept in operation until Captain Dubois was convalescent, when the sailors were transferred to their respective vessels. Captain Dubois was sound in body prior to the injury, and was often visited by Admiral Thatcher and Capt. E. Simpson."

Surgeon-General reports Dr. Lautenbach "was on duty as stated in his affidavit, but the sick-reports for third quarter 1865 are not on file."

Capt. E. Simpson, U. S. N., swears that "Captain Dubois was employed in raising vessels in Mobile Bay in 1865, and saved a large amount of property for the United States Government. While so employed he had a very severe fall, which resulted in some ribs being broken and other injuries. Captain Dubois was a most valuable officer, and could be relied on in any emergency, and his widow richly deserves a pension."

Edwin R. Lowe swears that he was "a submarine engineer and diver, and was employed by Captain Dubois to help to raise the Osage in Mobile Bay, and while so doing Captain Dubois fell through the battle-hatch of the Osage and was thereby severely injured by striking his ribs against the combings of the hatch, thereby fracturing his ribs and receiving severe injuries. Witness was at the time on board the vessel, and saw Captain Dubois a minute after he was hurt and had been carried on board the Althea, which he commanded."

Dr. Andrew Otterson swears that he "knew the claimant for twenty years, and always considered him sound and able-bodied until he was injured by a fall while in the Navy, and at this time he is of unsound mind and totally unfit to take care of his property or his family, and is now (October, 1874) an inmate of the Kings County lunatic asylum. Captain Dubois is not a dissipated man or drinking man. Affiant was his family physician."

Dr. Stephen B. Doty testifies substantially to the facts as set forth by the previous witness, and declares "that he was a man of good habits."

Dr. W. H. Randolph testifies that Captain Dubois was under his care in 1870, "suffering from cerebral disease, having disordered vision and partial loss of hearing. It is affiant's opinion the result of fall in the service."

Dr. Norvin Green, vice-president of the International Ocean Telegraph Company, testifies that "Captain Dubois was in the employ of said company in 1873. I soon discovered a sad defect in memory and wandering mind; soon after he became insane. The symptoms and results to the mind, and finally death, were such as might have resulted from a blow or fall on the head some years previously."

The full text of the rejection by the Pension Office is as follows:

"Immediate cause of death, softening of the brain. Remote cause, unknown; but not the result of any injury received while in the service.

"Reject.

"N. F. GRAHAM,
"*Medical Examiner.*

"Approved January 29, 1876.

"T. B. HOOD,
"*Medical Referee.*"

Your committee are of the opinion that T. B. Dubois, while in the line of duty in the United States naval service, incurred the disability which eventually terminated in loss of reason and loss of life, and that the petitioner (his widow) is entitled to a place on the pension rolls of the government, in accordance with the provisions of the pension laws.

Your committee have reached this conclusion after careful examination of the voluminous testimony found in the case. The character and standing of the witnesses, whose statements so fully explain and corroborate each other, make the chain of evidence complete in favor of the claim.

The records of Surgeon-General's Office show that the returns for the last quarter of 1865 are not on file, but the surgeon who treated deceased testifies clearly to the occurrence and to treatment for the injury. Captain Simpson, his superior officer, testifies to the injury, and in his letter refers to it.

This committee adopt the foregoing report, and recommend the passage of the bill (H. R. 1102) placing upon the pension-rolls the name of Elizabeth T. Dubois.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1057.

JOHANNA PAUL AND ANNA KABERLA.

APRIL 14, 1882.—Laid on the table and ordered to be printed.

Mr. CABELL, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 3994.]

The Committee on Invalid Pensions to whom was referred the bill (H. R. 3994) granting a pension to Johanna Paul and Anna Kaberla, have had the same under consideration, and beg leave to submit the following report:

From an examination of the papers on file in the Pension Office, in the cases of Johanna Paul and Anna Kaberla, it appears that they are the late widow and child, respectively, of Joseph J. Kaberla, who was a private in company A, Second Minnesota Cavalry, and while in said service was frozen to death on the 13th day of February, 1864. The widow's as well as the minor's claim for pension have been rejected by the Pension Office, because the soldier came to his death while on individual furlough, for which there is no provision in the pension laws.

Among the papers on file the committee find the furlough given the soldier by the captain and countersigned by the colonel of the regiment. It is dated "Fort Snelling, February 13, 1864," and grants leave of absence for twelve days. The death of the soldier is shown by the certificate of the captain, dated December 28, 1864, which sets forth that furlough was granted to Kaberla to enable him to provide for his family during his absence in the United States service, and that he was frozen to death February 15, 1864, near La Fayette, Minnesota. With this certificate the captain forwarded a copy of a letter addressed to him under date of Fort Ridgely, February 26, 1864, by Capt. H. P. Grant, commanding the post, stating that on the preceding day information had been received at the post that the bodies of two soldiers were found lying on the roadside about twenty miles away; that the same were brought to the post and found, from papers on their persons, to be Peter Laukes and Joseph Kaberla, of company M, Second Minnesota Cavalry.

The Adjutant-General reports that the soldier enlisted at Saint Peter, Minn., December 22, 1863, and was frozen to death February 15, 1864.

The marriage of the late widow to the soldier February 10, 1863, is shown by record evidence, and the legitimacy of the child is well established.

It also appears in evidence that the soldier emigrated to this country but a few months prior to his enlistment, and being unacclimated to the severe cold of the region in which he was serving fell an easy prey to

the exposure incident to a journey on foot across the snowy plains of Minnesota in midwinter. Whether overcome by a storm or stiffened by extreme cold and unable to travel further is not shown, and in fact could not be shown under the circumstances.

However, the case is one for which your committee can see no precedent for relieving; therefore they report the bill back to the House with adverse recommendation.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1058.

ALICE McMAHON.

APRIL 14, 1882.—Laid on the table and ordered to be printed.
APRIL 17, 1882.—Committed to the Committee of the Whole House, and together with the Senate report, ordered to be printed.

Mr. WADSWORTH, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill S. 251.]

The Committee on Invalid Pensions, to whom was referred the bill S. 251, beg leave to report the bill back to the House, with the recommendation that it *do not* pass, for the reason that there is no proof that the soldier, whose widow asks for a pension, died from disease contracted in or consequent upon his service, but, on the contrary, did die four years after the war from acute pneumonia.

[S. No. 131, Forty-seventh Congress, first session.]

In the Senate of the United States, February 7, 1862.—Ordered to be printed.

Mr. PLATT, from the Committee on Pensions, submitted the following report (to accompany bill S. 251).

The Committee on Pensions, to whom was referred the bill (S. 251) granting a pension to Alice McMahon, having examined the same, report:

That the applicant, Alice McMahon, is widow of Daniel McMahon, who was a private in Company L, Second Regiment, New York Heavy Artillery. Enlisted on the 9th of November, 1863, and mustered out with his company September 28, 1865. The soldier died March 12, 1869, never having applied for a pension, and claimant filed an application for a pension September 4, 1878, which was rejected October 25, 1879, upon the ground that the disease of which the soldier died, acute pneumonia, originated subsequent to the soldier's discharge. The Army records do not show sickness or disability in the Army, and no medical treatment of the soldier is shown until February 20, 1869 (the commencement of his last sickness); but it is shown by the testimony of neighbors, who appear to be credible, that at the time of his discharge he was suffering from an asthmatic difficulty, and that his lungs were weak; that he was amaciated and had a cough, and that such continued to be his condition, in greater or less degree, until the attack of pneumonia, which terminated fatally. Dr. M. C. West, who attended him in his last illness, testifies "that said McMahon had been a sufferer by reason of asthma, his lungs being in a weak and unhealthy condition, which predisposed him to the attack of pneumonia, and that he has reason to believe that the patient would have survived the attack of pneumonia had it not been that his strength had previously been so exhausted by asthma." In view of these facts the committee is of opinion that the applicant has an equitable claim to a pension, and therefore recommend the passage of the accompanying bill, after it shall have been amended by adding to the same the words, "her pension to commence from the passage of this act."

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1059.

ALONZO SNYDER.

APRIL 14, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HUTCHINS, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 2532.]

The Committee on Claims, to whom was referred the bill (H. R. 2532) for the relief of Alonzo Snyder, have had the same under consideration, and ask leave to report:

That this claim was before the Committee on Claims in the Forty-third, Forty-fourth, Forty-fifth, and Forty-sixth Congresses, and favorable reports were made from said committeee by Representative Hawley (report No. 137) in the Forty-third Congress, and by Representative Lindsay (report No. 1344) in the Forty-sixth Congress:

That the facts in the case appear to be correctly set forth in a report made by the Committee on Claims of the Forty-third Congress, and your committee adopt its report, and report back said bill and recommend its passage.

"The Committee on Claims, to whom was referred the bill (H. R. 261) for the relief of Alonzo Snyder, beg leave to report:

"That, by the records of the War Department, it appears that said Snyder was a special agent in the employ of the Provost-Marshal-General's Bureau from May, 1863, to April, 1865, in and for the twenty-fifth district of New York; that by the record of deserters arrested and correspondence on file in the department, it also appears that the persons named in the petition of said Snyder for relief, to wit, Donald A. Campbell, Daniel D. Mann, and George W. Randall, were each and all arrested as deserters. And it further appears to the satisfaction of your committee that such arrests were made by the petitioner, Alonzo Snyder, except the arrest of Campbell, and that Campbell's arrest was made by his orders. The records further show that said Campbell was discharged as having been "erroneously arrested;" that Daniel D. Mann was held to service; that George W. Randall had already been discharged from service of the United States, and was erroneously reported to said Snyder as a deserter, but that Snyder had no knowledge thereof. Your committee further find that each of said persons commenced an action against said Snyder for false imprisonment; that the suits brought by Campbell and Mann have never been prosecuted, but were abandoned after the defendant had retained counsel and appeared therein, but that the action brought by Randall was prosecuted to a judgment, and that the petitioner obtained a judgment against Randall for his costs, which judgment has never been paid and is worthless; that in the defense of these several suits, the said Alonzo Snyder has paid or incurred considerable expense, amounting in the aggregate to $250, and that he has never in any manner been paid therefor; that the Adjutant-General, in his report upon the case made at the request of the committee, says: "As the petitioner was an officer of the United States, * * * and the arrest was made in good faith, upon

information obtained through the regular channels, it is thought that the petitioner, Alonzo Snyder, is entitled to be reimbursed by the United States for such expenses connected with the said suit as were properly and necessarily incurred;" that in the opinion of the committee the whole of said expenses, amounting to $250, were properly and necessarily incurred in the defense of said suits, and that said Alonzo Snyder should be paid therefor.

"The committee report back the said bill, being House bill No. 2532, and recommend that the same be passed."

O

47TH CONGRESS. 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1060.

JAMES M. MASON.

APRIL 14, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BOWMAN, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 5810.]

The Committee on Claims, to whom was referred the petition of James M. Mason, and accompanying papers, for the payment of damages caused by reason of the obtaining by the United States of a preliminary injunction against him, as hereinafter described, have considered the same, and respectfully report:

This claim was favorably reported upon by the Committee on Claims of the last Congress. Their report was as follows:

The United States claimed to own, under old deeds to them (of 1813 and 1818) from Fairfax, certain lands and interests in certain lands on the east bank of the Shenandoah, opposite Harper's Ferry, and also a certain lot in Harper's Ferry on the river bank and opposite a part of the said land first referred to, and as appurtenant to said lands a certain ferry or the franchise thereof across the river from said lot in Harper's Ferry to the east bank of the Shenandoah.

In 1869 the United States sold their land on the east side of the river, the lot in Harper's Ferry, and the ferry, to Neer & Co. Claimant became by purchase owner of a lot of land adjoining said land of the United States on the east bank of the river.

The vendees of the United States operated a ferry across the river, and claimant, after his said purchase, established, in pursuance of the statutes of the State, and proceeded to operate another ferry across the river at a short distance from the said ferry of the vendees of the United States.

Thereupon the United States, by bill in equity against claimant in the district court of the United States for the district of West Virginia, sought to restrain him from using his ferry upon the ground, among others, that the ferry-franchise belonged to them and by sale to their vendees, and that claimant had no right to establish and operate his ferry at that point.

Upon this bill in equity the United States, on May 29, 1878, obtained from the court a preliminary injunction restraining claimant from operating his said ferry.

On the 22d of May, 1879, the said injunction was dissolved so far as it restrained the claimant from using his said ferry, and "it is ordered that further proceedings in the cause be discontinued, and the case be stricken from the docket as being ended by this decree."

Claimant submits that he should be paid the damages suffered by him by reason of this preliminary injunction, namely, the damages for the loss of his ferry from May 29, 1878, to May 22, 1879.

If this had been a case between individuals the respondent would have been able in that suit to have obtained an assessment of the damages caused by the preliminary injunction, and judgment for the amount thereof, provided the court was of the opinion that he was entitled thereto, and probably such preliminary injunction would not have issued until the complainant had filed a bond to pay all such damages.

In this case the court could not enforce from the United States payment of such damages, and claimant is obliged to come to Congress for relief.

The committee are of opinion that there is no reason why the United States should

not be under the same liability that would rest upon an individual under similar circumstances.

The committee therefore report a bill, with the recommendation that the same do pass, allowing the claimant to file in said court a petition in the nature of a motion in said case of the United States *vs.* Mason, for the allowance to him of such damages as he might have been able to collect if the complainant had been an individual.

This committee adopt the conclusions of said report, and therefore report the accompanying bill and recommend that the same do pass.

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1061.

MRS. SALLIE CARROLL, EXECUTRIX, &c.

APRIL 14, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. JADWIN, from the Committee on War Claims, submitted the following

REPORT:

[To accompany bill H. R. 5811.]

The Committee on War Claims, to whom was referred the bill (H. R. 2386) for the relief of Mrs. Sallie Carroll, executrix and devisee of William T. Carroll, deceased, report as follows:

The object of this bill is to indemnify the loyal owner for timber taken and used by the military authorities of the United States in the construction of some of the fortifications north of Washington and for other military purposes.

Mrs. Sallie Carroll is the executrix and sole devisee of William T. Carroll, deceased, who was for many years the clerk of the Supreme Court of the United States, and who died in the city of Washington on the eleventh day of July, 1863.

He was conspicuously loyal to the Government of the United States, as was his widow; and some of the members of his family rendered important and distinguished military service to the government during the rebellion.

The Carroll estate consisted in part of two tracts of land in Montgomery County, Maryland, called respectively "Sligo" and the "Dobbin" tract, or farm. "Sligo" contained about 148 acres, and "Dobbin" farm about 327 acres.

In the years 1862 and 1863, the Chief Engineer of the defenses of Washington, General Barnard, directed that all the timber on these tracts should be cut down, in order to obtain material for the construction of forts, fortifications, &c., and in order to clear the field of fire from the forts to be constructed.

In the erection of Fort Slocum and adjacent batteries, which constituted a portion of the defenses of Washington on the north, one hundred and thirty thousand cubic feet of hard timber, taken from the "Sligo" tract, was used under the orders of the officers of engineers engaged in the construction of the fortifications around Washington.

The timber used for this purpose was hard timber, oak and chestnut, and of large size. In addition, 2,000 cords of wood cut from the same tract was used for the construction of abatis.

Estimating the logs used in the construction of the forts to be worth ten cents per cubic foot, and the wood used for other purposes as worth

$3.50 per cord, the amount justly due from the United States and payable for the property thus taken:

For 130,000 cubic feet of timber, at 10 cts	$13,000 00
For 2,000 cords of wood, at $3.50	7,000 00
Total	20,000 00

The taking of this timber for military purposes, and its use in the construction of Fort Slocum and adjacent batteries and for abatis, are stated with great minuteness in the affidavit of Mr. John Collins, under whose direct superintendence the work was done, and who was a thoroughly competent, reliable, and truthful man, as is shown by the affidavits of Mr. Gunnell, the assistant engineer in charge.

By the same affidavits the value of the timber and cord-wood are shown, and are the same as adopted in this report.

Upon these facts it appears to the committee that it is the plain and indisputable duty of Congress to pay this claim.

Provision has heretofore been made to pay all loyal citizens of the States lately in rebellion the value of their property taken and used as stores and supplies for the benefit of the military forces of the United States. No action has been taken by any department of the government on the claim for wood used in the construction of fortifications. The provisions of the act of July 4, 1864, do not apply.

Col. Barton S. Alexander, United States Engineer Corps, in a letter to the Chief of Engineers, dated Washington, D. C., April 10, 1874, says: "In my judgment the sum of $250,000, if properly distributed, will be a fair compensation for all damages done to property of loyal owners by the Engineer Department in the construction and maintenance of the fortifications of Washington during the late civil war."

To deny to a loyal citizen of the District of Columbia any compensation for the loss of his property that was taken and used for the protection of the capital, would, in the opinion of your committee, be a great injustice.

Your committee therefore report back a bill as a substitute for the bill H. R. 2386, and recommend its passage.

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1062.

ANN STUCHELL.

APRIL 14, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MOSGROVE, from the Committee on Pensions, Bounty, and Back Pay, submitted the following

REPORT:

[To accompany bill H. R. 2627.]

It appears from evidence on file in the Pension Office, that the petitioner was the mother of Christopher Stuchell, late a private in Company A, Sixty-first Regiment of Pennsylvania Volunteers, and that he had issued to him during his lifetime two pension certificates, number 117506, one for $8 per month, from July 17, 1862, to August 8, 1866, and from that time till April 22, 1873, $25 per month, on account of his right eye having been injured by gunpowder at the battle of Fair Oaks, which produced total blindness, his left eye having been blind when he enlisted. The papers on file in the Pension Office show also, that he died intestate and unmarried, leaving surviving him his father, Francis Stuchell, and his mother, the petitioner, Ann Stuchell, who were at the time of his death, under the intestate laws of Pennsylvania, his lawful heirs.

The said Francis Stuchell has since died intestate leaving surviving him, the said petitioner, Ann Stuchell, now in indigent circumstances. Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Treasurer of the United States be, and he is hereby, authorized and directed to pay, or cause to be paid to the petitioner, the said Ann Stuchell, mother of Christopher Stuchell, the sum of $2,381.22, out of any money in the Treasury of the United States not otherwise provided for, the amount of pension due said Stuchell in his lifetime, from the date of his discharge to March 4, 1873, and for which a check number 122751 was issued to him, payable to his order, but not indorsed by him, or paid to him, or any other person, by reason of his death.

The Pension Office rejected this claim under section 25 of the act of Congress approved March 3, 1873. The rejection may be according to the strict rules of the Pension Office and the act of Congress aforesaid. Your committee, however, are of the opinion that this is a just and meritorious claim, and report favorably upon the prayer of the petitioner, and recommend the passage of the bill H. R. 2627.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1063.

SYLVESTER F. HILDEBRAND.

APRIL 14, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MOSGROVE, from the Committee on Pensions, Bounty, and Back Pay, submitted the following

REPORT:

[To accompany bill H. R. 1530.]

The Committee on the Payment of Pensions, Bounty, and Back Pay, to whom House bill No. 1530 *was referred, having examined the evidence on which the merits of the said case are alleged to rest, find as follows, to wit:*

That the claimant, Sylvester F. Hildebrand, enlisted under lawful age in Company E, 139th Regiment of Pennsylvania Volunteers, on the 20th day of August, 1862; that his mother shortly after the enlistment of her son, above named, made application to the War Department for the discharge of her son on account of his being a minor when he enlisted; but your committee find from the evidence that the said Sylvester F. Hildebrand was not discharged until the 7th day of June, A. D. 1865, it being fourteen days before his company and regiment were mustered out and discharged from the service, and that the said Hildebrand was with his regiment in all its marches, and in all the battles in which his company and regiment participated, as is fully shown by the certificates and affidavits of the officers in his regiment.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1064.

MARTHA. J. COSTON.

APRIL 14, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. VANCE, from the Committee on Patents, submitted the following

REPORT:

[To accompany bill S. 706.]

The Committee on Patents, to whom was referred the bill (S. 706) for the relief of Martha J. Coston, have considered the same, and respectfully report:

That the subject-matter of said bill has been twice favorably reported by the Senate Committee on Patents, once in the last Congress, and again at the present session, the bill having been passed by the Senate March 14, 1882.

All the facts of the case are so fully set forth in the report of the Senate Committee (S. Report No. 89 of the present session) that your committee have adopted the same as their report; and in connection therewith the committee report the bill back to the House, and recommend its passage.

[S. Report No. 89, Forty-seventh Congress, first session.]

The Committee on Patents, to whom was referred the petition of Martha J. Coston, praying for the passage of a bill permitting her to make application to the Commissioner of Patents for a further extension of a patent for the Coston Night Signals, have considered the same, and respectfully report:

Petitioner is the widow of B. F. Coston, who invented the pyrotechnic night signals. After his death letters patent were granted to her as his administratrix, dated April 5, 1859, and numbered 23536. This invention is of very great importance and value. It has been adopted by the Navy of this and other countries, and by many of the principal steamship lines of the world. It was of great service in enforcing the blockade in the late rebellion, and in conducting hostile operations, among them the capture of Fort Fisher.

We extract a few of the numerous testimonials to the value of this invention.

The board appointed by the Secretary of the Navy to test the signals in 1859, conclude their report, after detailing a long series of experiments, as follows:

"The application of the 'Coston Night Signals' to the Navy signal-books *gives a perfect code of night signals. They offer precision, fullness, and plainness at a less cost of fireworks than it is thought we now pay for confusion and uncertainty.*

"C. S. McCAULEY,
"*Captain and Senior Officer.*
"JOHN RODGERS,
"*Commander, U. S. N.*
"HENRY H. LEWIS,
"*Lieutenant, U. S. N.*"

"NAVY DEPARTMENT,
Washington, D. C., December 5, 1865.

"MADAM: Forwarded herewith is a letter from the Chief of the Bureau of Navigation, who has immediate charge of the signals invented by your late husband and perfected by yourself, relative to their value and use in the Navy. *During the recent rebellion they were of incalculable service,* and I take pleasure in transmitting to you this testimonial of their worth.

"Very respectfully,

"GIDEON WELLES,
"*Secretary of the United States Navy.*"

"BUREAU OF NAVIGATION, NAVY DEPARTMENT,
"*Washington, December* 5, 1865.

'No lights or other symbols for making night signals in fleets or squadrons have been found, so far as this bureau is aware, *in any degree comparable to those known as the Coston Night Signals.*

"THORNTON A. JENKINS,
"*Chief of Bureau.*"

"AT BROOKLYN NAVY-YARD, N. Y.,
"*June* 22, 1865.

"I can now, however, say to you, that during my late command of four years your signals have been *in constant use throughout the fleet, and I think have given general satisfaction,* and inasmuch as I know of none which possess any advantages over them, it gives me pleasure to add my testimonial to their great utility; and I trust you may be fully rewarded for the genius of your late husband, and the zeal and perseverance with which you have perfected and introduced them.

"D. G. FARRAGUT,
"*Vice-Admiral, U S. Navy.*"

"NAVY DEPARTMENT,
"*Washington, D. C., March* 29, 1870.

"As you know, I have always been a great advocate of your signals. *They are the very best ever invented, and although we have tried to get up something better we have never yet succeeded.*

"DAVID D. PORTER,
"*Vice-Admiral, U. S. Navy.*"

"NAVY DEPARTMENT,
"*Washington, D. C., May* 23, 1870.

"It affords me pleasure to add my testimonial to others more potent than mine, to the *great value of your signals to your country,* especially during the late rebellion, when their great importance was fully tested. The service you have rendered in perfecting and bringing out what your late husband had labored long upon and left unfinished, reflects the highest praise upon your patriotism, ability, and perseverance in completing this valuable improvement.

"JOSEPH SMITH,
"*Rear-Admiral.*"

"OFFICE OF THE SIGNAL OFFICE,
"*Washington, December* 20, 1862.

"It is with great pleasure that I inform you that the signal lights prepared on your plans have been used *with entire satisfaction* in the Signal Corps of the United States Army. The lights burn with great brilliancy, intensity, and exactness, and are distinctly visible with the unaided eye at a distance of several miles. *They have been of much service to the corps in establishing signal stations during the night.* The intensity of the light caused it at once to attract attention and to be easily distinguished from other lights or fires at any distance. I regard them as *the most available and best prepared composition light known to the service.*

"ALBERT J. MYER,
"*Signal Officer, United States Army.*"

The committee on pilot rules, lakes, and seaboard, appointed by the United States inspectors of hulls and boilers, in their report of February 12, 1875, conclude as follows:

"It is believed by the committee that if these signals were in use by the commercial marine of the country and the world, and an international code established, they would add much to the protection of life and property, and afford a greater security than now exists.

"With the conviction expressed above, the committee believe it to be the duty of this board to recommend Congress to take such action on this subject as will provide by law for the use of the 'Coston Telegraphic Night Signals' on the commercial marine of the country.

"JOHN MENSHAW.
"WM. ROGERS.
"PETER J. RALPH."

Similar testimonials of the value and importance of these signals are also furnished from the official records of nearly every country in Europe, including Great Britain, France, Holland, Prussia, Russia, Denmark, and Sweden; many of which countries appropriated the invention without payment therefor. As a sample we quote the following from the French naval authorities:

"FLAG-SHIP SOLFERINO, SQUADRON OF EVOLUTIONS,
"OFFICE OF THE VICE-ADMIRAL, COMMANDER-IN-CHIEF,
"*January* 25, 1865.

"MADAME: I take pleasure in informing you that *all the admirals, captains, officers, and sailors* of the squadron of evolutions, for the last two years under my command, are equally *astonished* with myself at the results the signals have afforded us at sea in all weather and under all circumstances. The Admiral *Rigault de Genouilly,** my predecessor, was not less satisfied than myself. All my reports, as well as his own, give evidence of these facts.

"The Count BOUET WILLAUMEZ,
"*Vice-Admiral, Commander-in-Chief, &c.*"

In addition to all this, the signals have been officially adopted by the boards of commissioners of pilots of New York and New Jersey, and are now used at all the life-saving stations, where they have been of incalculable service in the saving of life and property.

By continued and strenuous efforts, the petitioner has succeeded in securing the adoption of these signals by thirty of the fifty-six lines of steamers and other vessels which sail to and from New York, the last no longer ago than in April of the present year. In January, 1880, nearly one hundred of the owners, officers, and agents of these lines united in the following petition to Congress:

"*To all whom it may concern:*

"We, the undersigned, owners, agents, captains, and others interested in shipping, do heartily indorse the use of the 'Coston Telegraphic Night Signals,' as a means of communication at sea for signals of distress, pilotage, and as distinguishing night signals for vessels' use.

"We also feel that the above invention should be encouraged and protected in every way, since *it is very important* that vessels should be supplied with *reliable* signals, which we know the same to be.

L. W. PENNINGTON, port captain Clyde's Lines.
CLARK & SEAMAN, Cromwell S. S. Lines.
H. F. DIMOCHE, Metropolitan S. S. Co.
H. A. BOWSER, Genl. Supt. O. D. S. S. Co.
JUL. W. QUINTARD & Co., Charleston Line.
C. H. WINNETT, S. S. G. W. Clyde.
BOGERT & MORGAN, agents Morgan's L. & T. R. R. & S. S. Co.
Capt. B. F. BURDECK, supt. Morgan's Line.
Capt. A. B. COLEMAN, S. S. Genl. Whitney.
JAMES A. SMITH, master S. S. Florida.
A. B. MALLETT, master S. S. Hatteras.
E. H. MALLER, jr., agent Texas, Florida & Brazil steamers.
JOHN PENNINGTON, master of S. S. Rio Grande.
SNOW & BURGESS, 66 South street.
SAMUEL F. PHILLIPS, master S. S. Santiago, Ward's Line.
JAMES O. WARD & Co., New York and Cuba Mail Steamship Line.
GEORGE F. REILLEY, agent Edwards' Cardiff Line.
C. A. JONES & Co., 52 South street.
WARD & TOWER, 43 South street.
JOHN BLISS & Co., 110 Wall street.
J. A. KELLEY, master S. S. Manhattan, O. D. S. S. Co.
HENRY A. HODGES, supt. pier 37, N. R., O. D. S. S. Co.
C. G. WEST, supt. French pier.
P. E. LE FEVER, supt. Ocean S. S. Co.

* Since minister of marine.

GEO. W. HALL, 18 William street.
THOS. M. FLEETWOOD, master S. S. City of Savannah.
Capt. F. G. NEALLEY, Pacific Mail Steamship Company, by W. H. Shaw, secretary.
H. I. BULLARD, supt. P. M. S. S. Co.
Y. BETTIS, first officer S. S. Hudson.
J. H. MERRYMAN, captain U. S. R. M., inspector of life-saving stations.
H. R. FUKMAN, Str. Hudson.
S. E. FOOTE, master S. S. Santiago de Cuba.
AUSTIN BALDWIN, jr., agent State Steamship Company.
FRENCH, CAGE & CO., White Cross Line Antwerp Strs.
BOWRING & ARCHIBALD, per Henry Bowring, Red Cross Line.
———, S. S. Rossend Castle, commodore Red Cross Line.
F. ALEXANDER & SONS, N. Y., Havana & Mexican Mail Line.
J. W. T. HURST, National Steamship Co.
M. S. WOODHULL, master of City of Atlanta.
J. W. HAWTHORN, master steamer Algiers.
H. L. QUIRK, master steamship Lone Star.
JOHN G. HEUPPERS, master steamship Albemarle.
T. P. SUNDBERG, master steamship Saratoga.
T. S. & J. D. NEGUS, 140 Water street.
F. KEMPTON, master steamer City of Macon.
T. CLEARY, superintendent State Steamship Company, New York.
JOHN M. KECHNIE, master Mikado State Line.
F. KEMBLE, master steamship Knickerbocker.
ALBERT EMERY, chief officer steamship City of Alexandria.
JOHN DEAKEN, steamship City of Alexandria.
A. P. SPRAGUE, secretary International Code Com.
JOHN K. NICKERSON, steamship State of Texas.
J. A. SLAMM, first lieutenant U. S. R. M.
JAS. BERRY, master steamship Charleston.
ROBERT B. QUICK, master steamship New York.
WILLIAMS & GUION, 29 Broadway.
F. C. SCHMIDT'S SON & CO., 1 South William street.
WALTER R. T. JONES, of Coast Wrecking Company.
Capt. SAM'L LAWRENCE, late of steamship Isaac Bell.
JAS. GIBBS, master steamship Isaac Bell.
G. M. WALKER, steamship Old Dominion.
JOSEPH A. MCKEE, steamship City of Atlanta.
JAS. BOLGEE, steamship Colorado.
ISAAC HINES, steamship Western Texas.
HICKS & BELL, 68 South street.
J. B. BAKER, first officer steamship Niagara.
T. G. C. HALSEY, steamship New Orleans.
JAS. S. HINCKLEY, first officer steamship New Orleans.
THOS. S. CURTIN, captain S. S. Niagara.
SAMUEL RISH, master S. S. City of Dallas.
Capt. H. CHESTER, master, late of City of Dallas.
M. B. CROWELL, S. S. City of San Antonio.
A. D. BURROWS, S. S. Carondelet.
JOHN W. SADLER, S. S. State of Indiana.
S. G. PORTER, S. S. Crescent City.
LOUIS F. ZIMMERMAN, S. S. City of Washington.
W. M. RETTIG, S. S. City of Merisla.
SAM'L HARDING, agent, Bureau Veritas.
H. C. DAGGETT, first officer S. S. City of Columbus.
K. S. NICKERSON, master S. S. City of Columbus.
S. P. GRIFFIN, master S. S. Colon, P. M. S. S. Co.
ROBT. B. KELLY, chief officer S. S. Santo Domingo.
JAS. HOLMES, master steamship Santo Domingo.
MAYNARD BEARSE, master S. S. Glaucus.
JAMES W. SIMONTON, gen. agent of Associated Press.
WM. B. SOMERVILLE, supt. Press Dept. W. U. Teleg'h Co.
B. F. LUDWIG, supt. Com'l News Dept. Gold and Stock Tel. Co.
FREDERICK READ, master S. S. Chalmette.
HERMAN WINTER, mechanical engineer and surveyor to Lloyds' Register.
THOS. JONES, master S. S. Benefactor.
B. W. B. CROWELL, S. S. City of Para.
E. V. GAGER, S. S. Louisiana.
A. G BRAES, S. S. State of Nevada.

"NEW YORK, *Mar.* 15, '80."

The signatures to this petition include the names of the owners and officers of the most important steamship lines of the country, nearly all our southern and sea-coast lines, besides many of the trans-Atlantic lines; and they are the parties who use and pay for the signals.

These testimonials establish to our entire satisfaction that Coston's invention is a great contribution, whose money value can hardly be reckoned, to the safety of all persons who go down to the sea in ships, and to the resources of the country in war.

Mr. Coston died at the age of twenty-seven; his widow states that his health was destroyed by the constant inhalation of gases in conducting chemical experiments. Mrs. Coston devoted many years to bringing the invention into general use.

Under the authority of the act of Congress of June 5, 1862, the government purchased of Mrs. Coston the right to manufacture and use these lights under the existing patent and all extensions or renewals thereof for the sum of $20,000. Mrs. Coston paid out from this sum $8,000 to a chemist who aided her in perfecting the invention, under an agreement for a contingent share in the profits, and $2,000 for other expenses properly chargeable to the cost of making and introducing the invention; so that in fact she has received from the invention only $10,000. A board of naval officers, whose opinion was indorsed by the Secretary of the Navy, recommended the payment to her of $40,000 as just compensation.

We think Mrs. Coston ought to receive further compensation for this invention, and that it is just that the patent should be extended for seven years more. This will impose no charge upon the Treasury of the United States, as the right of the government to use the same without cost will be secured. The royalty which she will receive will be cheerfully paid by the owners of steamships and other vessels who will not feel the slight burden.

Mrs. Coston sets forth in her petition her losses under a contract with the United States to manufacture signals for the Navy during the war, and the partial compensation for those losses by the action of the Congress. But as the government was then the owner of the right to manufacture and use the signals, this contract had nothing to do with the merits or rights of the inventor, and losses or gains under it should not be charged or credited to the patent. There is no existing business embarked in the manufacture, except as the government manufactures for itself. We annex Mrs. Coston's statement of her case, marked A. We report the accompanying bill, and recommend its passage.

"A.

"*Hon. F. Kernan, chairman, and gentlemen of the*
"*Committee on Patents of the United States Senate:*

"Your petitioner, Martha J. Coston, of Washington, D. C., respectfully submits the following as a brief and correct statement of the facts relating to the patent for telegraphic night-signals referred to in her petition and bill referred to this committee. These signals were invented by my late husband, Benjamin Franklin Coston, formerly of Philadelphia, but who, at the urgent request of Admiral Stewart, Commodore Stockton, and other naval officers, was induced to remove to Washington and take charge of the laboratory at the navy-yard, under a temporary appointment, with the rank of master in the service. While there he made many valuable inventions, all of which the government has had the free use of ever since.

"Upon the invention and experiments with the night-signals he expended much time and money from his private means in his efforts to perfect them, but in consequence of failing health, caused by the constant inhalation of gases from chemicals while conducting experiments for the government, he resigned his position to accept that of president of the Boston Gas Company, but died soon after, at the early age of twenty-seven, and before securing the patent for the signals. At that point I took up the work, where he left it, feeling that it was a matter of national importance as well as my main reliance as a means of support for myself and children. Having supreme faith in the future success of the signals, I devoted my life and all my energies to them. I found it difficult to find a competent chemist to take hold of the work, but at last succeeded; only, however, by agreeing *to assign to him one-half of the patent* when issued, and *to give him one-half of all I might realize from the patent, both at home and abroad.*

"As administratrix of the estate of my late husband, I made application for the patent, which was duly issued April 5, 1859, No. 23536. Having secured the patent, I then set to work to secure the adoption of the signals. After long and continuous efforts on my part, and repeated trials by various naval officers, and upon a favorable report by a special board of officers appointed for the purpose of testing them, they were finally adopted for the use of the Navy. The board recommended the payment of $40,000 as a just compensation, and this was indorsed by the Secretary of the Navy. The bill provided for the payment of but $30,000, and that was reduced to $20,000, for

which the government acquired the full right to the use of the signals for the Navy, not only during the life of the patent, but also *during any and all extensions thereof* (Cong. Globe, 1861, p. 462; act of June 5, 1862, Stat., vol. 12, p. 315). Of this $20,000 I paid, according to agreement, $8,000 to said chemist, G. A. Lillindahl, besides $2,000 I paid to agents, and other expenses in conducting experiments and in presenting the matter before Congress. In addition to this, I subsequently advanced $6,000 to this same party to enable him to go on with the manufacture of the signals, *in order to comply with the request of the Secretary of the Navy* to supply our blockading and other fleets during the war, of which latter sum I never received a cent, the party having made an assignment while I was absent in Europe endeavoring to secure the adoption of the signals there, and he not including or making any return of my claim among his liabilities, and thus it turned out that I actually realized but $4,000 out of the $20,000 appropriated by Congress.

"It subsequently transpired that the government was not in a position to manufacture these signals in large quantities; and at the commencement of the rebellion, when orders were issued for the blockade of the Southern ports, it was necessary that our vessels should be supplied with the signals without delay, and I was requested by the Secretary of the Navy to undertake to manufacture and furnish them forthwith.

"In the hurry and excitement of the time, and without opportunity for consultation, at the request of the Secretary of the Navy, I undertook to supply the signals at $4.50 per set of 12 pieces. That was a time when gold was at par, and when there was no internal-revenue tax or manufacturer's tax of any kind; but as the war went on taxes were imposed—the duties on the chemicals used, and which had to be imported, had to be paid in gold, and the chemicals themselves had also to be paid for in gold, at greatly increased prices, while the gold itself was never less than 50 per cent. premium, and some of the time much higher, and hence it turned out that I actually furnished the signals to the government at a considerable loss, and though I appealed to the department time and again to increase the price or to relieve me from the taxes imposed on the business, I was unable to obtain either any increase in the price or any relief from the taxes imposed, the Secretary of the Navy urging me in the mean time '*to furnish the signals and not let the Navy be without them*,' that they were *absolutely indispensable*, and promising me that he would see me recompensed if I could but continue to supply them, which I did at a continuously increasing loss. Besides this, I had to take my pay in paper money, at a greatly depreciated rate, or government vouchers, which had to be sold at a discount, while furnishing the signals at *a price fixed when gold was at par*, notwithstanding their greatly increased cost for the reasons above stated.

"I petitioned the Secretary of the Navy to increase the price, and he finally convened a board composed of Admiral C. H. Davis, Admiral Joseph Smith, and another, who, after fully investigating the matter, recommended an increase of 25 per cent. in the price, as had been allowed in all other similar cases. The Secretary approved their report and forwarded it to the Bureau of Ordnance, which then had charge of this business, when, to the astonishment of all, the Chief of Ordnance refused to pay the increase recommended, and the Secretary, for some reason to me unknown, neglected to compel him to do so; but at the same time urged me to continue to furnish the signals until the close of the fiscal year, at which time, and near the close of the war, the business was transferred to the Bureau of Navigation, after which the price was increased to $6 per set; but very few were ordered after that, they being no longer needed, except in small quantities, and when the vessels returned home they had sufficient to supply the small number of vessels retained in commission for several years, and since then they have been manufactured at the government laboratory at the Washington navy-yard, so that since the close of the war the only chance to sell the signals has been to such of the merchant-marine as could be induced to adopt them, and which has furnished but a very small business—so small that it has not justified the building of a factory for the purpose.

"I should add, however, that the Secretary of the Navy, after the business was transferred as above stated to the Bureau of Navigation, so far recognized the justice of my claim as to increase the price paid $1 per set, making the price $5.50 instead of $4.50, but it was so late when this was done that but very few were furnished at this latter price.

"Finding I could get relief in no other way, I subsequently petitioned Congress for redress. The Committee of the House on Naval Affairs, to whom the matter was referred, in their report used this language:

"'About the time of its close (the war), even when prices had fallen, the department recognized the justice of Mrs. Coston's demands by paying to her one dollar more per set for the signals thereafter furnished by her.

"'At a like rate for those delivered by her previously, $100,000 would be due to her. The manufacturer's tax, with additional duties on the articles which entered into this manufacture, it is estimated would reach $20,000 additional.' (House Report No. 334, Forty-third Congress, second session, herewith.)

"At the rate recommended by the board convened by the Secretary of the Navy as above stated, it would have amounted to $125,000, which, with the $20,000 on account of the tax and increased cost of materials, would make the sum of $145,000 to which I was justly entitled.

"The bill, however, failed to pass, and at the next session a bill was introduced in the Senate. The committee recommended the payment of $15,000 in full of all claims, and reported a bill to that effect; but, before it passed, the amount was reduced to $13,000, which I was obliged to receive in full payment for the $120,000 that it was acknowledged was justly due me; and of this $13,000 I lost all but $5,000 by the failure of a railroad company, in whose bonds I had been induced to invest it. (S. bill 728, first session Forty-fourth Congress, and Report No. 259 herewith.)

"After my return from Europe, in 1870, during which time, as before stated, I had lost the $6,000 which I had advanced to the party who was manufacturing the signals for me to supply the Navy, I succeeded in obtaining from him the half interest in the patent which he held, and induced my son, W. F. Coston, to take charge of the business.

"When the war closed, and our vessels returned home, it was found that they had quite a supply of the signals on hand, and the department concluded to manufacture what it might thereafter require for itself, and consequently the only chance or hope left for me was to secure the adoption of the signals by the merchant marine, and to the accomplishment of that object I devoted my best efforts.

"Among other efforts to that end, I endeavored to secure the passage by Congress of a law authorizing the use of the signals on all sea-going vessels as a distress signal at night, and a bill for that purpose was introduced in the House by Hon. Mr. Clayton, at the second session of the Forty-third Congress, but which failed to pass. (H. R. 4636, second session Forty-third Congress.)

"At the next session I renewed my efforts, and a bill was introduced in the Senate by Hon. F. Kernan, at present chairman of this committee, but it also failed to become a law. (S. 981, first session Forty-fourth Congress.)

"I also applied to the Treasury Department to have the signals adopted for the Revenue Marine, and also endeavored to secure their adoption by the Light-House Board, but, although the officers in these branches of the service have repeatedly asked their chiefs of bureau for them, they were never adopted. I succeeded in getting them adopted in the life-saving service, and would respectfully refer to the chief of that bureau for any information the committee may desire as to their great value to the service.

"During all this time I used all the means in my power to secure their adoption by the various lines of steamers and vessels sailing to and from the ports of the United States, but only with limited success, although so important was their adoption considered that the New York Herald for years kept a standing notice of them at the head of its shipping news, which it published gratuitously. While engaged in these efforts the patent expired, but, upon application duly made to the Commissioner of Patents, it was extended April 4, 1873, it being *a 14-year patent.*

"After the extension, myself and my son, W. F. Coston, who assumed control of the business and located at New York as the most available point, redoubled our efforts to get them more generally introduced. We brought the matter before the North Atlantic Steam Traffic Company, the United States board of inspectors of hulls and boilers, the boards of commissioners of pilots both for New York and New Jersey, and, in short, before every maritime association or interest we could find. The committee on pilot rules of the board of United States inspectors of hulls and boilers strongly recommended the adoption of the signals, and in May, 1878, they were officially adopted by the board of commissioners of pilots both for New York and New Jersey. Unceasing as have been our efforts, we have not yet been able to get them fully introduced, though constantly gaining, but 30 of the 57 lines sailing to and from New York having adopted them, as shown by the accompanying chart, and some of them only *within the past month.*

"As to my efforts abroad, I will state briefly that I was compelled to rely on my manufacturer for means to secure the foreign patents, and also to pay my traveling expenses; and after I arrived abroad I found to my astonishment that the patent *had been taken out in his name,* through connivance with the agent, so that I found myself there utterly helpless, and unable to proceed, though, after much trouble and delay, I succeeded in getting the matter set right, only because he found nothing could be accomplished until that was done.

"I made four trips to Europe—the first in 1859, when I brought the signals before the Governments of Great Britain and France. In the former country, after repeated trials and two favorable reports, and after I had been kept waiting there a year on expense, the matter was dropped, and I realized nothing—not even my expenses in the matter.

"About that time I received a letter from the French minister of marine, notifying me of the favorable results of the experiments there, and desiring to negotiate for the

acquisition of the invention. I went at once to France, where a board was convened, but the only result was a request for more signals *for further trials*. I furnished the signals, as requested, but seeing no prospect of any early decision I returned home, having been absent nearly two years. Upon receipt of another letter from the minister of marine, I returned to France in January, 1863, where I had to await the action of another board of officers, who, after keeping me waiting on expense for a year, again disappointed me by simply calling for more signals *for further trials!*

"Again in 1865 I received such letters from the French authorities as induced me to make a third trip there. I had, at my first visit in 1859, fixed my price at $30,000, and although the several trials had proven perfectly satisfactory, as shown by the bulletin of the minister of marine (see accompanying pamphlet, pp. 10, 11), it was not until this third trip that I could get any final action, and that was to offer me $8,000, and to inform me that if I did not accept it I would get nothing, and as a matter of necessity, in view of my heavy expenses, I took it.

"I next brought the signals before the Italian Government, which, after a good deal of delay, adopted the signals in 1869–'70, and paid me therefor a sum which, after deducting agents' fees, left about $8,000 in paper. The settlement of this affair required two visits to Italy by me, and occupied a period of three years, so it will readily be seen that the amount realized was nearly all consumed by the necessary expenses.

"I next brought the matter before the Austrian Government, which was also slow to act, and before anything could be accomplished my patent had expired; and though I made the government a present of signals for trial, and made two trips thither, and although their reports were highly favorable, nothing ever came of it.

"I also made two trips to Russia and Sweden in 1867, in which countries I had procured patents, and I went there again in 1870; but, while receiving great encouragements, the only result was equally great disappointment.

"I brought the invention before the Government of Denmark, where I had no patent, and after a lengthy correspondence they offered me $2,500, which I accepted.

"In prosecuting these efforts abroad, I took out patents in England, France, Italy, Russia, Austria, Norway, and Sweden, and also paid the agents for patents in Holland and Belgium, which he never procured. I also visited Prussia and endeavored to procure a patent there, but for some reason it was denied. I however brought the invention before the government, and at their request procured signals from the United States for trial by their fleets. I made three trips to Berlin at a heavy expense and loss of time, but without success; for about that time they learned the address of my manufacturer in New York, and finding they could obtain the signals by having them ordered from him by agents or parties here, they dropped the matter, and to this day I have never received a cent from that government for all my time and trouble, nor for the signals furnished at their request for trial.

"The committee can readily see that with the expenditure of time and money made by me in these efforts, extending over many years, and involving repeated trips all over Europe, and the employment of agents and counsel in these several countries, and the payment of one half of all received to Mr. Lillindahl, as agreed, I necessarily had to expend all or very nearly all that I received for the invention abroad, to say nothing of the anxiety and annoyances to which I, a woman and a stranger in foreign lands, was necessarily subjected.

"And now, gentlemen, while still engaged in this work, and before we have been able to secure the general adoption of the signals, the patent is about to expire, and hence this application.

"It is needless for me to speak of the great value of the invention, because it is recognized the world over as one of the utmost importance, in a humanitarian as well as in a financial sense, inasmuch as it has been the means of saving numberless lives as well as millions of property at sea. On this point I beg to call attention to the official reports and documents submitted herewith, both American and foreign.

"It is proper also to call your attention to the peculiar character of the invention, it being of such a nature that it cannot be used by the public at large, but only by a very limited portion thereof; and hence the income from it is necessarily limited, as is shown by the fact that the business, with the best efforts of my son and myself, does not pay to exceed $1,000 a year. As a consequence, he has been compelled to combine with it some other business, and I have, during the past season and at various other times, been compelled to advance money out of my private means to keep up the business.

"Under these circumstances the question will naturally arise in your minds why I should desire the extension of the patent. My reasons are these: The signals and their introduction have been with me a life-work, and one in which I have felt and still feel both a national and a personal pride. For twenty-one years I have given to this object the best energies and efforts of my life, and have trained my son to the idea of taking up and carrying on his father's work.

"There is yet much to be done in securing their universal adoption, and this can never be so effectually accomplished by any one else, as no one can possibly feel the

interest in them that we do, and the business itself is not sufficient to induce capitalists to take hold of it.

"Besides all this, it is, as you can readily see, of the *utmost importance* that these signals shall be so made as to be *absolutely reliable*, because upon them often depend hundreds of human lives and thousands, if not millions, of dollars worth of property. If the signals should fail to operate, or, worse still, should not operate correctly, the results would be terrible indeed. Moreover, they must be so made that they can be stored and carried on long voyages, at all seasons and in all climes, and not be subject to injury from dampness or other causes, and at the same time be free from the danger of spontaneous combustion—conditions that would never be complied with if the patent is allowed to expire and the manufacture of the signals be thrown into the hands of the makers of the ordinary fire-works, as, of course, it would be; and it is for this reason that no less than ninety-seven of the owners, agents, and masters of steamship lines and vessels who use the signals have united in asking Congress 'to protect and encourage the invention in every way, since it is *very important* that vessels should be supplied with *reliable* signals, which we know these to be.'

"The only interest the public has or can have in the matter is that the signals shall be reliable and cheap and be generally used. In no way can this be so well or surely done as by keeping the work in the control of those who, by a record of near a quarter of a century, have demonstrated their ability and determination to do it, and do it well; and that can only be done by an extension of the patent.

"No one else has invested capital or engaged in their manufacture, nor, so far as I know, has any one contemplated so doing; hence, there is no business interest, existing or prospective, to be affected by it; and as *it is asked for by those most deeply interested in the matter—the owners and officers of steamship companies and vessels*—it is difficult to conceive of any reason why the bill should not be favorably reported.

"In this matter I feel that I have done a good work, a work that has benefited not only my nation, but all who engage in maritime pursuits; and what I now ask is that I may be permitted to continue and complete the good work to which my life has been devoted, and as this can be done without injuriously affecting the interest of any human being, I trust it may be done.

"MARTHA J. COSTON.

"WASHINGTON CITY,
District of Columbia, ss:

"Before me, a notary public in and for the District of Columbia, personally appeared the above-named Martha J. Coston, who, being duly sworn, deposes and says that foregoing statements by her subscribed are true, according to the best of her knowledge and belief.

"Sworn to this 14th day of April, 1880.

"[SEAL.] "JAMES E. FITCH,
"*Notary Public, D. C.*"

"The Journal of Commerce has always approved of the Coston signals, and I earnestly hope that they will come into general use the world over.

"DAVID M. STONE,
"*Editor in Chief.*"

"The Coston signals have been in use in the United States Life-Saving Service several years, and have given perfect satisfaction.

"S. I. KIMBALL,
"*Gen'l Supt. Life-Saving Service.*"

"I am fully of the conviction that the Coston signals are a very valuable invention, and that their introduction into general use should be encouraged.

"D. LYMAN,
"*Chief Int. Rev. and Navigation Division.*"

"TREASURY DEPARTMENT, *March* 18, 1880.

"The Coston night signals have been in use in the Revenue Marine for several years, and are esteemed of great value by the officers of the service.

"E. W CLARK,
"*Chief of Rev. Ma.*

"TREA. DEPT., 18*th M'ch*, '80."

"[Great Western Steamship Line, England. Bristol and New York. Offices, the Grove, Bristol.]

"BRISTOL, *December* 30, 1879.

"DEAR SIR: Captain Williams, of the steamship Cornwall, has brought us your circular and a sample of your night signals. We are inclined to adopt the latter, and would suggest as a combination red, white, and blue, in succession. You may supply these lights to our boats as they are wanted.

"Yours, truly,

"MARK WHITWILL & SON.

"W. F. COSTON, Esq.,
"64 *Broadway, New York.*"

"NEW YORK, *March* 2, 1880.

"*To whom it may concern:*

"This is to make known that the steamers of the State Line have continually made use of the Coston signal light since the commencement of the running of the line; and we beg to state that they have given entire satisfaction throughout; the price fixed for these signals being so moderate that their frequent use is not considered an unreasonable tax upon the business of the company.

"AUSTIN BALDWIN & CO., *Agents.*

"[Morgan's Louisiana and Texas Railroad and Steamship Company. Bogert & Morgan, agents. Pier 36 North River.]

"NEW YORK, *March* 2, 1880.

"DEAR SIR: We have used the Coston Telegraphic Night Signals for several years upon the ships of our New York and New Orleans Lines. We have found them to be reliable, and consider them of great utility, sufficiently so to fully warrant their cost.

"Yours, truly,

"BOGERT & MORGAN, *Agents.*

"WILLIAM F. COSTON, Esq."

"[Office of New York and Charleston Steamship Company. Pier 27 North River, foot of Park Place. P. O. Box 2436.]

"NEW YORK, *March* 2, 1880.

"*To whom it may concern:*

"This company have used the Coston night signals for many years, during which time they have always given satisfaction as to price and quality.

"JUL. W. QUINTARD & CO., *Agents.*"

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1065.

BUREAU OF MINES AND MINING.

APRIL 17, 1882.—Referred to the Committee on Appropriations and ordered to be printed.

Mr. VAN VOORHIS, from the Committee on Mines and Mining, submitted the following

REPORT:

The Committee on Mines and Mining respectfully report, that it has had under consideration various bills, referred to it, for the establishment of a bureau of mines and mining, and also the management of an independent organization known as the United States Geological Survey, now existing under the Interior Department of the government.

The committee are of opinion that the geological survey is, to all intents and purposes, practically a bureau of mines and mining, and that all the legislation that is needed is to enlarge somewhat its jurisdiction.

The history of the establishment of the United States Geological Survey is as follows:

On the 20th of June, 1878, by act of Congress, the National Academy of Sciences was required to take into consideration the methods and report to Congress a plan for and the expenses of conducting all surveys of a scientific character under the War or Interior Departments.

On the 26th day of November, 1878, Prof. O. C. Marsh, acting President of the National Academy of Sciences, made the report of that organization to Congress, as required by the act of June 20, 1878, and in that report recommended "that Congress establish, under the Department of the Interior, an independent organization to be known as the United States Geological Survey, to be charged with the study of the geological structures and economical resources of the public domain, such survey to be placed under a director who shall be appointed by the President, and who shall report directly to the Secretary of the Interior."

On the 3d day of March, 1879, by a provision of the "Sundry civil appropriation bill," Congress established the United States Geological Survey, substantially in accordance with the report of Professor Marsh. The following is that provision:

GEOLOGICAL SURVEY.—For the salary of the director of the Geological Survey, which office is hereby established under the Interior Department, who shall be appointed by the President by and with the advice and consent of the Senate, six thousand dollars: *Provided*, That this officer shall have the direction of the Geological Survey, and the classification of the public lands, and examination of the geological structure, mineral resources, and products of the national domain, and that the director and members of the Geological Survey shall have no personal or private interests in the lands or mineral wealth of the region under survey, and shall execute no surveys or examinations for private parties or corporations; and the geological and geographical survey of the Territories and the geological and geographical survey of the Rocky Mountain region under the Department of the Interior, and the geographical surveys west of the one hundredth meridian, under the War Department, are hereby discontinued, to take effect on the thirtieth day of June, eighteen hundred and seventy-nine. And all col-

lections of rocks, minerals, soils, fossils and objects of natural history, archæology, and ethnology made by the coast and interior survey, the geological survey or by any other parties for the Government of the United States, when no longer needed for investigations in progress, shall be deposited in the National Museum.

Under this act Prof. J. W. Powell, an eminent scholar, and one of the faculty of the Smithsonian Institution, was appointed by the President and confirmed by the Senate as director of the United States Geological Survey, and he has had the direction and management of this survey up to the present time.

By a provision of the sundry civil appropriation bill, passed March 3, 1881, an appropriation of $150,000 was made for the expenses of the Geological Survey, and the Secretary of War was authorized to detail not exceeding two officers of the Ordnance Corps to serve with the Geological Survey.

The Geological Survey has done and is doing the initial work which would be intrusted to a bureau of mines and mining, and is in fact such bureau.

The importance of the work it has in hand cannot be overestimated.

The immense influence which the production of the precious metals, iron, and coal exert on the monetary system and various industries of the country renders the possession of trustworthy data as to the quantities produced and the geographic distribution of the productive regions a matter of great importance to a very large part of the people of the country. If any evidence of this statement were needed, it is furnished by the fact that bills have been introduced during the present session, to provide by different plans, for the collection of statistics of the mineral industries.

The Superintendent of the Census confided the investigation of the mineral resources of the country to the United States Geological Survey, and has made a very elaborate examination of the subject for the period indicated. Of the results obtained portions only have as yet been issued. The "Statistics of the Production of the Precious Metals" show the production of gold and silver in ounces and dollars, for every district, county, State, and Territory in the Union; the best ascertainable data as to the production of the United States prior to the census year, and tables and diagrams in which the product of this country is compared with that of others. Bulletins exhibiting the production of iron ores, coal, copper, zinc, and lead, have also been issued.

While these data are unquestionably the most important, the Geological Survey embraced the opportunity of gathering a vast body of material to exhibit the relations of mining to the other arts and to commerce. Mining was formerly a business in which but few persons invested, and these commonly made it their exclusive occupation; but at present it is safe to say that those who own shares in mining companies are to be counted by the million. The Geological Survey has submitted to the Committee on Mines and Mining tables for the census year, which are of great value to this large class of persons. These show where the mines of each State and Territory are owned, the dividends which have been paid by the mines of each district, the assessments levied, the cost of mining, &c. Accurate and well authenticated information of this kind concerning any mining district can only tend to further its development, for promoters of sound mining enterprises will be glad of the support furnished by such evidence, and misrepresentations, which always result in shaking public confidence, to the great detriment of legitimate mining interests, will not be so easily made as at present.

Mining cannot be prosecuted without drawing upon many other industries for supplies. Manufacturers of machinery, tools, gunpowder, rope, candles, and like materials, and dealers in these articles will be interested in the data concerning the means of transportation, consumption of mine supplies, and the prices of commodities in the various mining districts as exhibited in tables, which have also been inspected by the committee.

Finally, those actually engaged in mining as a pursuit will welcome the exhibit of the methods employed in mining and in the extraction of metals from their ores. Authoritative statements of the conditions under which mining is prosecuted and the results achieved will do more than anything else to promote the general adoption of the most economic and profitable methods, in turning to account the resources of the country. All this material will shortly be published.

The Committee on Mines and Mining has seen something of all the tables referred to, and it approves of the spirit in which they have been planned and of the manner in which they have been executed.

So elaborate an exhibit of the state of the mineral industry as that which has been examined by the committee is necessary only at intervals of decades, but on the other hand it is most desirable that an annual report of the utmost attainable accuracy should be made to Congress upon the production of the metals and coal, their value, and the addition to the financial resources of the country which these imply.

The Geological Survey is already thoroughly familiar with this work; it has ascertained by experience the difficulties of obtaining this information and the best methods of meeting them. It could furnish Congress, on or before the beginning of each calendar year, with tables of production for the preceding fiscal year. It could also supplement these tables by bulletins containing reports on such advances or changes in the mineral industries as appear of sufficient importance to justify such notice.

For this purpose it is indispensable that the mining localities should all be visited by special agents, who are mining engineers. The agents employed in the collection must also possess a thorough acquaintance with the subject of inquiry, if reliance is to be placed on their reports.

The committee are of opinion that the work of the Geological Survey should include statistics relating to gold, silver, anthracite coal, bituminous coal, iron, copper, lead, zinc, quicksilver, oil, salt, and some minor minerals, and that it should include chemical analyses of the iron, coal, and oil found in the various localities of the country. For this work an appropriation of $50,000 is needed.

Major Powell has twice appeared before the Committee on Mines and Mining on request, and has very ably and clearly stated to this committee what he has done, is doing, and proposes to do for the future.

The following is a letter from Major Powell to the chairman of this committee in answer to a personal request for information made on behalf of the committee:

DEPARTMENT OF THE INTERIOR,
UNITED STATES GEOLOGICAL SURVEY,
Washington, D. C., April 8, 1882.

SIR: In response to your request, I have the honor to submit the following statement of the operations of the Geological Survey in their relations to the mining industries of the country:

The accompanying paper presents an exhibit of the operations of the Survey relating to mining geology for the fiscal year ending June 30, 1881, and a description of the plan adopted in collecting statistics of mines and mining, with an illustration of the results obtained.

During the present fiscal year the Survey has extended its work to other mining districts, and it is proposed to go on with this work from district to district in the order of their importance, and to prosecute the work as rapidly as the appropriations made by Congress will permit.

It will be seen that the Geological Survey, in the scope of its work, is doing all that a bureau of mines and mining could do. The only limit to its efficiency is that necessarily imposed by the amount of the appropriations made by Congress. If a bureau of mines and mining were established, it would be necessary for proper and efficient work to organize it upon the plan of the Geological Survey, and it would thus be but a duplicate organization. If it is desirable to more rapidly pursue these researches, it would be wiser to increase the efficiency of the present organization than to create another of like character.

The Director of the survey receives many urgent requests from all parts of the country asking that the survey be extended into new districts. The interest in mining and correlated industries is rapidly growing, and there is a widespread and earnest desire to obtain trustworthy information concerning the mineral resources of the country. Doubtless this widespread desire has led to the introduction into Congress of so many bills relating to this subject.

Permit me to suggest that it might be well to consider the propriety of extending the Survey into the States where public lands are not found. From these States the Survey is excluded by law. If this extension should be made and adequate funds provided the urgent wants of the many mining districts of the country could be rapidly supplied.

In relation to the collection of statistics, it would, perhaps, not be wise to prosecute this work in the same elaborate manner annually as was done for the census year; but the statistics relating to the production of the mines, the personnel and wages of employés, and statistics relating to profit and loss could be collected yearly for a much smaller sum. The body of statistics for any fiscal year could be compiled and the results given at the close of the same calendar year, so that statesmen, political economists, capitalists, and miners would have before them the facts most valuable for their special purposes.

After a careful consideration of the subject in the light of the experience of the past two years, it is believed that an annual appropriation of $50,000 would be sufficient for the purpose of collecting such statistics.

I am, with great respect, your obedient servant,

J. W. POWELL,
Director.

Hon. JOHN VAN VOORHIS,
Chairman Committee on Mines and Mining, House of Representatives.

OPERATIONS OF THE GEOLOGICAL SURVEY RELATING TO THE MINING INDUSTRIES OF THE COUNTRY.

The following statement is a summary of the remarks made by the Director of the Geological Survey before the Committee on Mines and Mining, on March 29 and April 5, 1882:

The work of the Survey is:

First, topographic. It is necessary, in the study of geology in all its branches, that the geologist should be furnished with a map of the district to be studied, in order that the geographic relations of the geologic formations may be understood.

The second line of investigation pursued by the survey is structural geology. The structural geology of a country is a prime necessity for the proper study of its mining geology, as the latter must have its foundation on the former. Thus the topography and structural geology of any country must be first studied and delineated before its mining geology can become a subject of scientific research.

The third field of investigation in which the survey is engaged is mining geology, and mining geology has direct relations to the mining industries of the country.

Thus, all the work of the Geological Survey is directly or indirectly connected with the mining industries of the country.

From the date of its organization the Geological Survey has been engaged in prosecuting investigations in economic geology; that is, in re-

searches having in view questions of immediate and direct importance to the mining industries of the country. All wisely conducted geologic investigations ultimately result in a practical benefit to mining and correlated industries. The influence of general geology—that is, structural geology, with the aid of paleontology—is indirect, while that of mining geology is direct. But mining geology is superficial and almost valueless unless it has a solid foundation in structural geology.

The occurrence, magnitude, and value of all ore deposits are primarily related to geologic structure. The laws of this relation are but partly known, as the science of mineral deposits is but imperfectly developed; but every year adds new facts, and geologists are gradually groping their way into the light of a clearer knowledge of the subject. For this reason it is the policy of the survey to conduct both lines of research in every special district it attempts to examine.

The origin of ore deposits is a question involved in much obscurity. Its study requires careful and accurate chemical and mineralogic work, and involves the expenditure of much time and money to obtain trustworthy results. The information derived from actual excavations within the crust of the earth is of importance. The student of general geology may often neglect these in safety, relying for the observation of his facts on the exposures of formations appearing in the escarpments of mountain gorges, hill-sides, cañon walls, and banks of streams. But for the investigation of the phenomena of ore deposits it is necessary to penetrate deeply below the present surface, so as to study in detail the forms, characteristics, and relations of ore bodies beyond the disturbing and bewildering influence of surface alteration. The study of a single group of mines which have been opened to a great depth affords more valuable information than many districts where workings have penetrated but a few feet below the surface.

For the above reasons it is the plan of the survey to make accurate and detailed monographs of single mining districts, selecting first the most important from an economic and geologic point of view.

GEOLOGY OF LEADVILLE, BY MR. S. F. EMMONS.

In pursuance of this policy, Mr. S. F. Emmons, with a corps of assistants, has been engaged in the study of the structural and mining geology of a small district of country about Leadville, Colo.

The problem presented at Leadville is one in which the form and extent of the ore deposits are unusually dependent on geologic structure. Argentiferous lead ores are found impregnating a certain bed of dolomitic limestone of Carboniferous age, which is overlaid by intrusive sheets of porphyry of varying character and thickness. These rich ores are contained in a matrix or gangue of iron, manganese, and clay, the whole forming a vein material which has, to a greater or less degree, replaced the limestone bed—in some places to such an extent that none of the original sediment remains.

By the forces involved in the uplift of the Mosquito Range, in which these deposits are found, the whole sedimentary series, including the ore-bearing limestone, together with the intrusive sheets of igneous rock, have been folded, faulted, and shattered, and subsequent degradation, acting since the commencement of the Tertiary period, has laid bare irregular outcrops of the ore-bearing stratum. These have again been largely covered by an accumulation of surface gravels during and subsequent to the Glacial period.

In view of such complications of structure, it is not surprising that

varying and antagonistic views have been put forth by those who have studied different portions of the district without possessing a comprehensive view of the whole. It has only been by a most laborious and painstaking investigation, aided by accurate and elaborate maps, that Mr. Emmons and his assistants have been enabled to unravel this geologic tangle and present in a clear and consistent form the simple facts which underlie the whole.

As a result of these labors, the material has been gathered for a monographic report on the geology and mining industry of Leadville, and its preparation is now in progress. In it he has given the conclusions he has been enabled to draw concerning the origin and the manner of formation of the ore deposits, and has pointed out their probable continuance in ground as yet unexplored. The practical value of these indications to the mining community is evident at once. There seems good reason for assuming that hitherto only a small portion of the ore-bearing area has been developed, and that by a systematic and rational plan of exploration, based on the data to be furnished by the maps and explanations of the report, the present output of the district may be kept up, and even increased, for many years to come.

Mr. Emmons's views of the origin and manner of formation of the deposits differ essentially from those generally held; but, although novel, they are not simple theories. They are substantiated by facts and actual investigations, which will be explained in full in his report. He concludes that the metallic minerals of the deposits were originally contained in the associated porphyries in a finely disseminated condition, only to be detected by the most delicate tests. Percolating waters gathered them, little by little, and deposited them in the limestone bed, dissolving out the limestone by chemical interchanges. This took place before the movements which disturbed the beds, and the deposits were originally all sulphides. Subsequently (by the agency of water from the surface) the sulphides were gradually changed to the carbonates, chlorides, and oxides now found in the mines. These are comparatively near the surface, and when those portions of the deposits which have been less exposed to the action of surface waters are reached, the proportion of sulphides will be found to increase, and the ores may become poorer in silver than those near the outcrops, where a sort of natural concentration process has been going on.

Whatever may be the judgment of the scientific world upon Mr. Emmons's theoretic deductions, his monograph will prove of great practical value for the future development of the metallic wealth of the Rocky Mountains, since the extent of this hitherto little-studied class of deposits—of which Leadville may properly be considered the type region—is probably far greater than has heretofore been suspected, and a knowledge of their true character will greatly further their development.

Mr. Emmons's work will also be a valuable contribution to structural geology. The area surveyed presents a series of sedimentary formations and laccolitic igneous intrusions, the whole broken by faults and flexures into blocks which are tilted and twisted in diverse directions; and the general structure of the country in all its important details has been carefully studied and will be delineated in his report.

GEOLOGY OF THE COMSTOCK LODE, BY MR. G. F. BECKER.

The Comstock lode is in every respect a remarkable occurrence. The fact of its enormous production is familiar, but it is not equally well known that its vertical workings are carried to a greater depth than

any in the world except those of Przibram, in Bohemia. It also presents scientific problems of equal obscurity and interest, which have attracted great attention. It would be a reproach to American geology to leave the character of so prominent a mining district unsettled, and the present investigation was undertaken in the hope that the additional facilities presented by the great extension of the mine workings during late years and by recent advances in science would permit a more satisfactory solution than has yet been reached.

Mr. Becker has reopened the discussion of propylite, a rock, the existence of which as an independent species was asserted largely in consequence of its supposed occurrence in this locality, and, aided by the use of the microscope as a field instrument, he has come to the conclusion that the rocks classed under this name in the Washoe district are merely decomposed forms of rock species previously known.

The Comstock mines show temperatures which are not known to exist in any other workings in the world. The heat has ordinarily been ascribed to volcanic action, but of late years has been attributed to kaolinization of feldspar. Observations and experiments have been made to test the question, and the results are not in favor of the kaolinization hypothesis. No rise of temperature could be clearly traced to this action, while the vertical and horizontal curves of heat increment indicate that the source of heat is at a distance of more than two miles from the surface. It appears to have been transmitted to the surrounding rock bodies laterally from the walls of the lode. There is also strong evidence that this action was, and to a trifling extent still is, accompanied by the presence of gases characteristic of the hot springs which attend volcanic eruptions, and Mr. Becker reaches the conclusion that the immediate neighborhood of the Comstock lode must be considered as a solfatara now almost extinct.

The rock forming the east wall of the lode was found, when fresh, to contain small quantities of the precious metal—quantities which are continually reduced by decomposition. The facts accord well with the supposition that the ore was deposited by "lateral secretion" at or near the contact between the diorite (foot wall) and the diabase (hanging wall.) It is on this contact that all the important ore bodies have been found, and the inference is unavoidable that the future discovery of remunerative ore elsewhere is most unlikely. This forms a practical guide of the utmost importance in the workings of the mines, for of late the yearly expenditure on the Comstock in prospecting where there was no chance of finding ore would suffice for the support of the Geological Survey for a decade. It is pointed out that explorations should be confined to the neighborhood of this contact, and the conditions under which masses of the remunerative ore, or bonanzas, are likely to be encountered, are considered.

The report also contains discussions of some physical questions of interest. Veins usually occur on faults, and Mr. Becker shows that where faulting is accompanied by horizontal compression the results can be mathematically discussed. He explains certain topographic features as the result of faulting.

At Mr. Becker's suggestion, and under his direction, Dr. Carl Barus has investigated the electric activity of ore bodies, both at the Comstock and at the lead-silver mines in Eureka. The results are interesting from a theoretic point of view, and afford hope that in certain classes of mines essential aid may be rendered in prospecting by an examination of the electric isopotentials.

Mr. Becker arrays a large body of facts in explanation of the relation

of ore bodies to the containing formations; of facts relating to general structure produced by faulting; of facts relating to the metamorphism of the rocks and the paragenesis of minerals and ores; of facts relating to earth temperature and its laws of increment; of facts relating to electric phenomena; and of facts relating to the general structure of the mountains.

GEOLOGY OF THE EUREKA DISTRICT, BY MR. ARONLD HAGUE.

The field of Mr. Hague's researches, known as the "Eureka district," is in Central Nevada, and embraces a tract about twenty miles square.

The Eureka district is a center of important mining operations, and for economic considerations its elaborate and thorough study is demanded. The general structural geology must be known in order to determine the extent and geologic relations of the ore bodies, and it is proposed to supplement this study of its general geology by another of its mining geology. Mr. Hague's field work in general geology is now completed, and a monograph upon the subject is in an advanced state of preparation.

It will give a statement of the position and geologic horizon of the more important properties of the mineral districts, and of the relations of the ore deposits to the Tertiary and pre-Tertiary crystalline rocks.

An atlas of twelve sheets will accompany the monograph; the map being published on a scale of 1,600 feet to the inch, with 50 vertical intervals of 50 feet between contours—a scale large enough to lay down with accuracy the boundaries of the geologic formations and to indicate the laws of faulting.

Mr. Hague's report will constitute an important contribution to structural geology; will contain valuable information in economic geology, and will be the foundation essential to a final monograph on the economic geology of the district.

PRECIOUS METAL STATISTICS, BY MR. CLARENCE KING.

In this work, which properly comes within the province of the Geological Survey, but which forms a special branch, and should be conducted by a distinct corps of assistants, Mr. King was enabled to lay a broad foundation by assuming charge, at the request of the census, of the precious metal statistics for the tenth census. The direct supervision of this work in the district west of the one hundredth meridian, where the greater portion of the precious metals are produced, was assumed by Messrs. Emmons and Becker in their respective divisions. The scope of the investigation is not limited to the quantity of production of the metals, but involves also all the technic questions connected with mining and the reduction of ores; and in the same connection a large body of geologic data has been gathered. Probably never has so elaborate a series of technic data been obtained in regard to even special mining districts as is now in the possession of the survey with regard to the mining industry of the whole country.

The work of compilation and tabulation is now progressing rapidly under the efficient management of Mr. A. Williams, jr. As a specimen of the character of the results, an abstract is given in the Annual Report of the Director of the Geological Survey for the year ending June 30, 1881, of the "Production of the Precious Metals in the United States for the year ending May 31, 1880."

An examination of the table shows that while the Comstock lode, the

great producer of the country, has a greatly decreased output, this loss is compensated by a corresponding increase in other districts, notably the Leadville, of Colorado. As a whole, the mining industry of the country is in a healthy state, and the product of the precious metals in the future promises to show a regular and permanent increase.

The paper in that volume on the production ofthe precious metals in the United States gives in brief the results of the first systematic attempt to procure, synthetically, from the actual producers, complete statistics of the bullion yield of the country. It is published in advance of the forthcoming technic report upon the mining industry, which will embrace the investigations conducted in that field by the United States Geological Survey, consisting of examinations of 1,967 deep mines, 325 placer mines, 327 amalgamating mills, concentration works, chlorination and leaching establishments, 86 smelting works, and 25 arrastras.

This final report will contain a discussion of the distribution and exploitation of the precious metal mines, with the topographic and geologic questions involved; machinery and appliances; accidents; the various mechanic and metallurgic processes involved in the reduction of ores; and an inquiry into the relations of capital, labor, power, supplies, and transportation in mining, based upon the abundant data already collected and now in process of compilation.

The output for the year ending May 31, 1880, was $33,379,663 gold, and $41,110,957 silver, a total of $74,490,620 (coining value). Although these figures are somewhat less than those reached in three or four exceptional years, they represent a yield considerably higher than the average annual product, while the outlook for the future is most encouraging. From the beginning of mining operations in 1804 up to the above date, over a billion and a half of gold, and nearly half a billion of silver were produced. The vast importance of this element of the national resources is shown by the fact that one-third of the gold and one-half of the silver yearly produced in the world are mined within our borders.

The leading mining States are Colorado, California, and Nevada, followed by the Territories of Utah, Montana, Dakota, Arizona, and Idaho, in the order named. The proportionate amounts of gold and silver furnished by each vary greatly. Thus, while Colorado produces 40 per cent. of all the silver of the United States, she yields but 8 per cent. of the gold. California, on the other hand, the source of over half the gold, yields less than 3 per cent. of the silver. A similar divergence is observed in other portions of the mining region; the two precious metals occurring side by side, but often in widely disproportionate quantities.

The study of the relation of production to population develops some curious figures, ranging from an average of one mill per capita in Alabama to $278.14 per capita in Nevada, the intervening series indicating with great precision to what extent mining is a factor of wealth in the several localities.

The product per square mile varies from one cent, in the case of Alaska, to $185.20 in that of Colorado, the intermediate averages forming another standard of developed richness in the precious metals, from a different point of view, but roughly corresponding to that of the relation of production to population.

An examination of the tenor of placer gold has resulted in fixing the average fineness for the United States at .876; and it is found that the placers produce over $100,000 of silver annually, in alloy with gold—an item hitherto disregarded by statisticians.

Carefully prepared conversion tables of fine metal by weight into its

equivalent in money, and conversely from dollars to ounces, are appended in view of their utility to metallurgists and others. A series of graphic charts is also added, illustrating some of the most striking comparisons and deductions reached in the statistic compilation.

STATISTICS OF IRON, COAL, &C., BY PROF. RAPHAEL PUMPELLY.

In the organization of the Survey a division, in charge of Professor Pumpelly, was intrusted with the gathering of statistics relating to the mines and mining of the non-precious metals, coal, and lesser mineral substances. Its work has consisted, first, in gathering statistics of mines and mining; second, in a special investigation of the iron ores of the United States, both in the field and in the laboratory; and third, in the study of the distribution and character of the copper-bearing rocks of Lake Superior.

The collection of the statistics was performed in co-operation with the tenth census, and involved the canvassing of 10,440 mining establishments. At each the inquiry was made to cover a wide range of topics, including capacity, production, value of product, subdivision of labor, capital, material consumed, cost, power, accidents, and insurance, destination and adaptation of product; and the great majority of establishments were visited in person by agents of the joint organization.

The investigation of the iron ores involved the collection of commercial samples from most of the iron-ore deposits of the United States. These samples were taken to show the average chemical constitution of the product for the census year, and wherever it was important the separate portions of the deposit were sampled in order to show the bearings of the different portions upon the chemical character of the whole output. Each sample consists of several thousands of pieces and weighs from ten to twenty pounds, and they number more than thirteen hundred. All these have been, or will be, analyzed excepting those from Pennsylvania, for which State it has been decided to adopt the results of the State Geological Survey. The analyses are made for the most part to determine the amount of iron, phosphorus, and sulphur; but in every district the more important and typical are also being subjected to an exhaustive analysis. The results of this work will show not only the amount of ore produced in each district, but also its quality and adaptation.

At this time the compilation and digestion of the mining statistics have reached such a stage that Professor Pumpelly is enabled to report the most important totals.

Three of Professor Pumpelly's assistants will publish extended reports on investigations specially assigned them. Mr. Charles F. Johnson, jr., on the collation of the statistics; Mr. Andrew A. Blair, on the analysis of iron ores, and Dr. R. D. Irving, on the Lake Superior copper region.

Mr. Johnson's report will set forth in a comprehensive way the scope of the mining census, so far as the non precious metals, coal, and the minor economic minerals are concerned; will describe the methods employed in gathering the information, including the various checks to which the completeness and accuracy of the work were subjected; will place on record the methods of compilation employed, and will discuss a portion of the results.

Mr. Blair's report on the iron ores will consist chiefly of tabulated statements of the quantitative results of the analyses, but will contain also a description of the analyses themselves, explaining in great detail both the mechanical processes by which the various samples were treated prepara-

tory to chemical analyses, and the chemical processes employed to obtain quantitative results. The number of samples is so great that it is of the utmost importance not only that the methods of analysis are the best known to science, but that a full and permanent record be made of the actual processes; and minute descriptions of all the steps cannot fail to be of great service to science. As an incident to his work, Mr. Blair has made an elaborate investigation of the various methods in use for the determination of the percentage of phosphorus in iron ores, and his report will contain a historic and comparative discussion of the subject.

The following table exhibits the total product of the mines of the United States:

State.	Gold.	Silver.	Anthracite coal.		Bituminous coal.		Iron ore.	
			Tons.	Value.	Tons.	Value.	Tons.	Value.
Alabama	$1,300				322,934	$475,559	184,110	$189,108
Alaska	5,951	$51						
Arizona	211,966	2,325,826						
Arkansas					14,778	33,535		
California	17,150,954	1,150,886			236,950	663,013		
Colorado	2,699,900	16,549,274			462,747	1,041,350		
Connecticut							35,018	147,799
Dakota	3,305,846	70,813						
Delaware							2,726	6,553
Georgia	81,030	332			154,644	231,605	72,705	120,692
Idaho	1,479,655	464,550						
Illinois					6,089,514	8,739,755		
Indiana					1,449,496	2,143,093		
Iowa					1,442,333	2,473,155		
Kansas					763,597	1,498,168		
Kentucky					935,857	1,123,046	33,522	88,930
Maine	3,000	7,200					6,000	9,000
Maryland					2,227,844	2,584,455	57,940	118,050
Massachusetts							62,637	226,130
Michigan		25,858			100,800	224,500	1,834,712	6,034,648
Missouri					543,990	1,037,100	386,197	1,674,875
Montana	1,805,768	2,905,066			224	800		
Nebraska					200	750		
Nevada	4,888,247	12,430,666						
New Hampshire	11,000	16,000						
New Jersey							754,872	2,900,442
New Mexico	49,354	392,337						
New York							1,239,759	3,499,132
North Carolina	118,955	140			350	400	3,276	5,102
Ohio					5,932,853	7,629,488	198,835	448,000
Oregon	1,097,700	27,793			43,205	97,810	6,972	4,669
Pennsylvania			28,612,595	42,116,500	18,075,548	18,267,151	1,820,561	4,318,999
Rhode Island			6,176	15,440				
South Carolina	13,041	56						
Tennessee	1,998				494,491	628,954	89,933	129,951
Texas								
Utah	291,555	4,743,090						
Vermont							560	2,750
Virginia	9,322		2,600	7,800	40,520	92,837	169,683	384,331
Washington	135,800	1,019			145,015	389,046		
West Virginia					1,792,570	1,971,847	60,371	88,595
Wisconsin							41,440	73,000
Wyoming	17,321				589,595	1,080,451		
Total	33,379,663	41,110,957	28,621,371	42,139,740	41,860,055	52,427,868	7,061,829	20,470,756

State.	Lead ore.		Zinc ore.		Copper ingots.		Minor minerals.	
	Tons.	Value.	Tons.	Value.	Pounds.	Value.	Tons.	Value.
Alabama								
Alaska					3,933			
Arizona					3,183,750			
Arkansas								
California					720,000		2,597	$19,948
Colorado					1,578			
Connecticut								
Dakota								
Delaware							14,510	163,310
Georgia					922			120,135
Idaho					150,000			
Illinois	772	$30,200	3,000	$39,000				102,324
Indiana							7,599	22,291
Iowa	384	19,172						
Kansas	10,681	460,980	7,248	447,693				
Kentucky								
Maine					102,500	$18,040	1	2,000
Maryland			672	7,200	30,910			159,303
Massachusetts								101,970
Michigan					45,830,262	7,979,232		41,047
Missouri	28,315	1,478,571	34,344	599,373	230,717	25,730		13,196
Montana					1,212,500			
Nebraska								
Nevada					134,730		50	
New Hampshire					34,050	5,993		112,550
New Jersey			39,381	451,070			33,828	40,270
New Mexico					4,055			
New York								1,623,011
North Carolina					1,640,000	350,000		79,855
Ohio								
Oregon								
Pennsylvania			20,459	394,568	214,736	36,256		426,102
Rhode Island								
South Carolina							7,427	27,709
Tennessee	60	2,500	3,699	22,145	153,880			
Texas					5,084			
Utah								
Vermont					2,647,894	469,495		48,788
Virginia	11,200	33,000	10,448	24,126	678			179,125
Washington								
West Virginia								4,500
Wisconsin	1,728	78,525	4,617	64,562	18,087	1,549		100,000
Wyoming								
Total	53,140	2,102,948	123,868	2,079,737	56,320,266	8,886,295		3,387,444

The committee reports the following resolution to the House of Representatives, and asks that it be referred to the Committee on Appropriations for its consideration, and that its terms be embodied in the sundry civil appropriation bill:

Resolved, That $50,000 be appropriated for the expenses of the United States Geological Survey in procuring statistics in relation to mines and mining and in making chemical analyses of iron, coal, and oil, to be expended under the direction of the Secretary of the Interior.

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1066.

CONTESTED-ELECTION CASE OF BISBEE VS. FINLEY.

APRIL 17, 1882.—Ordered to be printed.

Mr. RANNEY, from the Committee on Elections, submitted the following

REPORT:

The Committee on Elections, to whom was referred the contested election case of Horatio Bisbee, jr., vs. Jesse J. Finley, from the second Congressional district of Florida, having had the same under consideration, beg leave to submit the following report:

The testimony in this case is voluminous, making a record of 1,227 pages, exclusive of the briefs and arguments of the respective parties and their attorneys.

Under the laws of Florida the governor of the State appoints five county commissioners for each county, and the latter appoint three officers of election at each polling place. These officers elect their clerk, and the board of election officers thus constituted hold the election and certify the result thereof to the county judge and clerk of the circuit court, who are also appointed by the governor. The county judge and clerk of the circuit court, with the assistance of a justice of the peace, constitute a board of county canvassers, who canvass the returns of the election officers from the several polling places in the county and certify the result to the secretary of state and governor. The secretary of state, attorney-general of the State, and comptroller of State constitute a board of State canvassers, who canvass the county returns and certify the result thereof. It is not disputed that the entire machinery of the election was in the hands of the political friends of the sitting member. It is true the statute of the State provides that the county commissioners shall appoint the officers of election, so that, "if possible," they shall represent two political parties, but the evidence discloses that this provision of the statute was frequently disregarded, and at some polls contestant had no political friend upon the board of election officers. It is not deemed necessary to set forth the allegations of contestant in his notice of contest, nor those in the answer of contestee, but the substance of them will be stated on each branch of the case. The contestant avers and claims that many electors duly offered to vote for him, and their votes were illegally rejected, and insists that all such votes so tendered and refused shall be counted as if cast.

As a question of law, we do not understand it to be controverted that a vote offered by an elector, and illegally rejected, should be counted as if cast. It was so held in the case of Niblack *vs.* Walls, Smith's Reports, page 104, reported by McCrary, who was then chairman of the Committee on Elections; again in Bell *vs.* Snyder, Smith's Reports, 251, 252, and in Martin *vs.* Yates, Forty-sixth Congress. McCrary, in his

work on contested elections, regards it as a settled principle (section 423), and your committee have so regarded it in this controversy.

In the appendix to this report, Exhibit A, will be found the name of every voter whose vote was tendered for contestant and rejected which we have allowed and counted for him except a few votes in Madison County. This exhibit gives not only the name of the voter, but the page of the record where the testimony will be found establishing his right to vote, and that his vote was tendered and rejected.

In the county of Marion, in which a large number of electors were deprived of the right to vote without any fault or neglect on their part, the electors in many instances, after being denied the right to vote. went before a United States commissioner and made an affidavit to the fact of their qualifications as electors, and of their offering to vote, to which they attach the identical ballot which they tendered to the election officers. The figures in the column of Exhibit A, headed affidavit, refer to the pages of the record containing such affidavits. In the case of Bell *vs.* Snyder, Smith's Reports, pages 251, 252, such affidavits were considered sufficient evidence of the voters' intention to vote for the officers whose names were on the ballot attached to the affidavit, and on such evidence their votes were counted.

But contestant has not only put in evidence the affidavit of the voters with their ballots attached, but has in most instances taken the testimony of the voter whose vote was refused, and where the voter is not called as a witness it is shown by the testimony of other witnesses, officers of the election, and other persons at the polls, that his vote was tendered and refused.

Your committee find from the evidence that there should be added to contestant's vote 268 votes, on the ground that they were tendered for him and illegally rejected, and should now be counted. It is urged by contestee that the votes of some of the persons named (Exhibit A) had been disfranchised by conviction of crime.

It appears to have been a rule with the election officers, not only in this but in other counties, to refuse to receive the vote of any person whose name was on a list—called by some of the witnesses a convicts' list—which had been prepared by the political associates of contestee and placed in the hands of the officer of election. It further appears that the votes of such persons on the said list were refused, without evidence of identity, and without the production of any record of conviction, at the polls.

We have excluded from our count the votes of all persons where the evidence is satisfactory that the person alleged to have been convicted is the same person whose vote was offered and refused, though the record of conviction is not in evidence, and to designate them have placed the letter C opposite their names on said exhibit.

We do not mean to be understood, however, as holding that the record of conviction in such cases should not be produced as the proper evidence of disqualification. The question is an immaterial one in this case.

It is urged on the part of contestant that the officers of the election at the polls of Mellonville, Orange County, and Live Oak, Suwanee County, connived at, and were parties to a premeditated plan formed to suppress the full Republican vote, and for this reason the returns should be rejected. While it is true that the evidence may warrant the rejection of the returns at these polls, yet the committee have preferred to retain the returns in all cases where it could be done without doing violence to the settled principles of law, and to correct the returns by

adding votes illegally rejected, and deduct those illegally cast, where there is evidence by which such correction can be made with reasonable certainty. We have therefore counted for contestant the votes tendered and refused, instead of rejecting the returns of these two polls.

Your committee also deduct twenty-one votes from contestee's vote, on the ground that they were cast by persons not possessing the qualifications of voters. Their names and page of record counting the testimony relied on, are given in Exhibit C of appendix hereto attached.

FOREIGN-BORN ELECTORS.

Contestant in his notice of contest alleges that certain votes were cast for contestee by persons of foreign birth, and claims their reduction on the ground of their failure to produce before the officers of the election their naturalization papers or their declaration of intention to become citizens, as the constitution and the laws of Florida require.

The constitution of Florida reads as follows on this point:

Section 3, article 14, of the constitution of Florida reads as follows:

At an election at which a citizen or subject of any foreign country shall offer to vote, under the provisions of this constitution, he *shall present to the persons lawfully authorized to conduct and supervise such election* a duly sealed and certified copy of his declaration of intention, *otherwise he shall not be allowed to vote;* and any naturalized citizen offering to vote *shall* produce before said persons, lawfully authorized to conduct and supervise the election, the certificate of naturlization, or a duly sealed and certified copy thereof, *otherwise he shall not be allowed to vote.*

It will be thus observed that the constitution of Florida *commands each and every voter of this class to perform a certain act, "otherwise he shall not be allowed to vote,"* and this act peremptorily enjoined is the production of the evidence by the individual of his right to vote.

It is a fundamental principle, as firmly established as any rule of law, that votes must be cast as the law directs, and if the law requires the voter to produce certain specified evidence of that right before he can cast his vote, and he fails to produce that evidence, such vote, if cast, is illegal and void.

Questions identical with this in principle have been frequently decided by the House of Representatives and by the judicial tribunals of the country, some of which are here cited.

In Pennsylvania persons not assessed were required to answer certain questions under oath, as to age, residence, &c., and to prove their residence by the affidavit of a qualified voter, as the prerequisite evidence of their right to vote. It has been repeatedly decided by the courts of that State, as well as by the House of Representatives, that votes cast without the production of such evidence as the law requires are *presumed to be illegal votes.* (Maner *vs.* Cassidy, 1 Brewster R., p. 2; Myers *vs.* Moffett, 2 *id.*, p. 230; Weaver *vs.* Given, 1 *id.*, p. 141; Shepperd *vs.* Gibbons, 2 *id.*, p. 117–129; Brightly's Law Cases, pp. 558, 572–492, 493, notes; Myers *vs.* Moffett, 2 Bartlett R., pp. 564–4567; Covode; *vs.* Foster, *id.*, 600, 637, 608.)

In the case of State *vs.* Hilmontel, 21 Wis. R. (574 to 578), a question identical in principle with the one now under discussion was ably and elaborately considered. The statute of Wisconsin provided that no person whose name was not upon the registration list should vote, unless he produced his own affidavit and that of a householder stating his residence and qualifications as a voter.

The court *unanimously* held, after a second argument by able lawyers, that a vote cast by a person not registered, without furnishing the affidavits required by the statutes, was illegal and void, *and that in a contest*

such votes cannot be made legal by proof that the persons who cast them could have furnished such affidavits if they had been challenged or otherwise required to do so. In that case it was conceded that the persons, some 600 in number, who cast the votes in question, had all the qualifications of electors, but that the "burden is on him (the voter) to furnish the affidavit," that he was the agent to execute the law, and that without such affidavit his vote cannot be counted, though in every other respect he was a legal voter.

This case, decided by the supreme court of Wisconsin, declares a principle which disposes of the question raised in this contest. Here the constitution of the State makes every voter of this class an agent to execute it, and places the burden upon him to furnish the prerequisite evidence of his right to vote. The constitution does not say that he shall be required to produce his naturalization papers only when his vote is challenged. By that instrument he is informed and challenged in advance of the election itself, and he must approach the polls armed with such evidence as the supreme law commands him to produce as a condition precedent of his right to exercise the franchise of an elector. Our attention has not been directed to any judicial authority in conflict with the authorities cited. On the other hand, we find the principle to have been uniformly applied, and we are, therefore, of the opinion that it should be applied in this case.

The principle must likewise be maintained that the production of this evidence at the trial will not change the legal status of the voter, and thus make these votes in question legal votes. Such a decision would be at variance with a well-established principle of law, which forbids the making of an act valid at a subsequent period, which, at the time of its commission, was void, because prohibited by law.

Votes illegal when received cannot be made legal by evidence offered at the trial which should have been produced before the vote was cast. (Shepperd *vs.* Gibbons, 2 Brewster, p. 129; Meyers *vs.* Moffet, 1 *id.*, p. 230.) The principle is again established in the following:

> If election officers receive a vote without preliminary proof, which the law makes an essential prerequisite to its reception, such vote is as much an illegal one as if the voter had none of the qualifications required by law. (Brightly's Law Cases, 453–492, notes; also, 21st Wisconsin, 566; 23d Wisconsin, 630; 16th Michigan, 342.)

The principle is self-evident. Voting is a single *act* commanded to be performed within a particular time on a particular day, and in conformity with law; there cannot, therefore, be a valid performance of the requirements of the law at a period subsequent to the day on which alone the law commanded the act to be performed. The question at issue is not whether such evidence as required by law to establish their right to vote could have been furnished, but whether such evidence was furnished. If they did not produce it, the supreme law prohibited their voting, and an act prohibited by law cannot be valid.

The committee being of the opinion that all votes cast by persons of foreign birth, who failed to produce their naturalization papers, or papers declaring their intention to become citizens, as required by the constitution of Florida, are illegal and void. We proceed to state the number of such votes which, from the testimony, should be deducted from the count.

The evidence introduced and to be relied upon is, first, the testimony of the voter himself that he did so vote without producing such evidence of his right to vote; secondly, his own admission under oath that he voted for contestee; and, thirdly, where the voter refuses to testify for whom he voted when called and sworn by the contestant, the

testimony of other witnesses that he adhered to and supported the principles of the Democratic party and was a Democrat. This is a well-settled principle: "When a voter refuses to testify for whom he voted, it is competent to resort to circumstantial evidence, such as that he was an active member of a particular political party." (McCrary, sec. 293.)

We find from the evidence that 74 votes should be deducted from contestee's vote, on the ground that they were cast by persons of this class. Their names, and page of the record containing the testimony relied on, are given in Exhibit B of the appendix.

ALACHUA COUNTY.

In this county contestant charges fraud and "ballot-box stuffing" at several polls, and has adduced testimony as to three polls, to sustain such charges.

Arredonda poll.

The charge touching this poll is in substance that the election officers corruptly made a false return of the votes cast. Under the laws of Florida each county is divided into election districts, and no elector can vote in any district other than that in which he resides.

The total vote returned from this poll was, in 1878, 322; the highest Republican vote for any candidate being 256, and the highest Democratic vote for any candidate being 66.

In 1880, the total vote returned from this poll, for Presidential electors, was 322 (exactly the total vote returned in 1878), of which 172 were returned for the Democratic electors, and 150 for the Republican electors; for Representative in Congress the total vote returned, in 1880, was 241 (81 less than for Presidential electors), of which 172 were returned for contestee, and 69 for contestant; and for the legislative ticket the total vote returned was 328, of which 172 were for the Democratic candidates, and 156 for the Republican candidates; according to the returns, the Democratic vote had increased from 66, in 1878, to 172 in 1880, and the Republican vote correspondingly diminished. Your committee are convinced, from the evidence, that the return of the votes from this poll is flagrantly false, and is not a true statement of the votes as they were cast at the election in question.

The return is impeached and destroyed as evidence by the testimony of the electors themselves. Contestant has called and sworn as witnesses 259 voters, each of whom testify unreservedly that he voted for contestant, and it is established by other evidence that another elector, deceased before the testimony was taken, voted for contestant, making 260 votes cast for him at this poll, instead of 69 given him by the returns.

The testimony of these electors will be found in the record, p. 68 to 218, inclusive. Their names are on the poll-list made and returned by the election officers (all of whom were the partisan friends of the sitting member but one, who was under the influence of liquor on election day), and it cannot therefore be disputed that the 260 shown to have voted for contestant were legal electors, nor have your committee any doubt they voted for contestant.

As to the testimony of some of these voters, the criticism is made that they could not remember the names of all the candidates, State and national, for whom they voted.

We do not consider it remarkable that five months after the election an elector could not name all the candidates he voted for out of a dozen

or more on his ballot, while he would be likely to remember the name of his candidate for Congress, who had been his candidate for Congress for three elections in succession.

Any considerable number of voters proven for one candidate in excess of the number returned for him has always been regarded as evidence of fraud and a legitimate method of impeaching the return. Here it is established that 191 more votes were actually cast for contestant than were returned for him. We think it is sufficient a exclude the return from the count, without further evidence.

One provision of the statute is that "the ballot-box shall not be concealed from the public," and section 21 (of pamphlet compilation furnished the committee at the argument of the case) reads as follows: "As soon as the polls of an election shall be finally closed the inspectors shall proceed to canvass the votes cast at such election and the *canvass shall be public and continued without adjournment until completed.*"

Your committee find from the evidence that these provisions of the statute were violated, and without any reason being assigned for so doing.

Both the witnesses for contestant and contestee testify that after the polls were closed the officers of the election took the ballot-box away from the polling-room to a house in which they took supper, two or three hundred yards distant from the building in which the election was held, and the ballot-box was carried inside of the supper-house. Upon this point there is no conflict whatever in the testimony.

One of the election officers, Flewellen, a political friend of contestee, testifies that they had the election laws with them. The language of this witness upon this subject is as follows: "We tried in every respect to go by the election laws. *We had them with us, and complied with them as well as we knew how.*" (Record, 384.)

The language of this statute is so plain that any person of ordinary intelligence could not fail to understand its meaning, and we are constrained to say that either this election officer, Flewellen, was too ignorant to read a few plain sentences of the law, or has testified with a reckless disregard for the truth.

But he cannot escape condemnation on the ground of being ignorant, for it sufficiently appears that he possessed intelligence and was the ruling spirit in the board of election officers.

The testimony establishes that the adjournment for supper was not a careless or ignorant act, but that this officer, who swears he had the election laws with him, had ordered supper before the closing of the polls for all the election officers and the United States supervisors. (Testimony of Ed. Sammons, United States supervisor, record, page 194.)

It is also proven that this same officer, Flewellen, had in his possession the key of the ballot-box (testimony of George, inspector, rec., 39), (testimony of J. T. Walls, rec., 188), and for a portion of the time, when they were in the supper-house, he also had possession of the ballot-box (testimony of Sammons, rec., 194).

There is not any testimony adduced contradicting the fact that he had the key of the box about the middle of the day and at the time he went to the supper-house, and he admits, in his own testimony, that he had the possession of the ballot-box while in the supper-house. He says:

After the Democratic inspectors got through eating I went with the Republican inspector into another room, where his supper was served; *there he gave me the ballot-box, and I held it immediately in his presence until he got through eating, and then I gave the box back to him.*

This officer here tries to shield himself from the charge of tampering with the box, and to produce the impression that he could not have tampered with it without being observed by the Republican inspector. But we think it wholly incredible that the officer Flewellen so held the box under the eyes of the other officer during the entire time he was eating supper that he could not have tampered with it without being discovered. Besides, one witness, Ransom Baskins, who swore he voted a Democratic ballot (record, p. 200), testifies that the officers of the election used whisky freely; that they drank one bottle and one flask of liquor; and, with regard to this officer, Virgil George, he says, "I saw him drinking, and, at times, with his eyes shut and his head nodding." This officer was chosen by the other two inspectors, in a manner not authorized by law, in the place of his son, Ephraim George, appointed by the county commissioners, against the protest of a Republican committeeman, on the ground that he was a Democrat, and under the law the Republicans were entitled to one of the election officers (record, p. 217).

Contestee's witness proves that Ephraim was a disreputable man (record 380, 381), and had not been in the county for some time prior to the election, and not being present when the polls opened, Virgil, his father, was elected in his stead, by the other officers, when according to law the election should have been by the voters present at the polls. It was proven by one of its election officers that George left the polling-room several times during the day of the election. (Record, 390.)

The manner in which he was elected being considered, his making no opposition to adjournment, after the polls closed, which the law prohibited, nor to Flewellen having the ballot-box, and the key thereof at the same time, which the law also prohibited; that he drank liquor to excess, from the effects of which he was partially asleep at times, it is evident that he was blind to much that transpired, and was unfaithful to his trust and the duties of his office.

The law only authorized an adjournment for dinner between the hours of 12 m. and 1 o'clock p. m., for thirty minutes, and commanded that during such adjournment "the ballot-box shall be sealed and kept in possession of an inspector, who shall not have the key thereof."

It is established by the evidence, that the election officers remained in the polling-room after the polls were declared closed, *until it was dark*, with the shutters of the polling windows so nearly closed as to obstruct observation from the outside, during which time they did not commence the canvass of the votes. That after it was closed, Flewellen having the ballot-box in his possession, and the key too, which the law prohibited, announced that he had had supper prepared for the officers, whereupon they adjourned to the supper house, and in the supper-house this officer, Flewellen, again has possession of box and key. These officers excluded from the polling-room the Republican watchers, who under the law had the right to be present and witness the canvass, and to have a copy of the result of the election. The public view of the ballot-box was also obstructed during the day, by the construction of a narrow passage-way of boards extending back from the polling window, some sixteen feet, through which the voters approached the polls. (Record, p. 187.)

There was a small vote comparatively to be polled, and such a contrivance was wholly unnecessary from any apprehension that any elector would lose his vote by the voters crowding around the polls.

The oath of office prescribed for the officers of election in Florida to be taken pervious to receiving any votes, is "*that they will perform the*

duties of clerk or inspector of election according to law, and will endeavor to prevent all fraud, deceit, or abuse, in conducting the same."

There is no room for doubt that these officers of the election violated their official oath and the penal statute of the State and shamefully disregarded their duties which they had sworn to perform.

Having deliberately done this, we do not think any testimony given by them in this case uncorroborated by other evidence is entitled to much weight.

Your committee find no reason assigned in the testimony for the several violations of mandatory provision of the statute under which the election was held, and the conclusion is irresistible that the adjournment for supper and the removal of the ballot from the polling-room was a preconcerted act and for a corrupt purpose.

The total number of votes cast were according to the returns but 328 (record, 245), though there are 334 names on the poll-list (record, 244), and to canvass this number of ballots was not a work requiring much time, and certainly does not furnish any excuse for an adjournment before the canvass was made, which the law expressly prohibited.

Without any further statement of the evidence touching the action of the election officers, on this branch of the case your committee are of opinion that the disregard of the mandatory provisions of the election laws was willful and with a dishonest purpose of securing an opportunity to commit fraud, which such laws were intented to prevent, and that the conduct of these officers was such as to render their acts unworthy of credit and to entirely destroy the *prima facie* character of their return as evidence of the result of the election at this poll.

For this reason, as well as for the reason that the return is impeached and destroyed by the testimony of the electors, your committee have excluded this return from the count. The testimony with regard to this poll, taken in behalf of the sitting member, will be found in the record, pp. 378 to 294, inclusive, and the testimony in behalf of contestant, other than that of the voters, from pp. 186 to 196.

The precedents for excluding a return in such a case as this are numerous, and the principles of law, which we have followed, are well settled. We refer, however, to McCrary on Elections, sec. 302, 303; Brightly's Leading Cases, p. 493; 1st Brewster's Reports, pp. 60, 107; Washburn *vs.* Voorhies (2d Bartlett, 54); Reed *vs.* Julian (2d Bartlett, 822); Finley *vs.* Walls (Smith).

The sitting member took the testimony of the clerk of the circuit court of this county, to whom the ballot-boxes were delivered after the election.

This clerk, nearly six months after the election, produces the box, opens it, examines the ballots in it, and testified that there were in the box, 85 Republican ballots, counting no name for member of Congress; that there were but 68 ballots for contestant, though the return gives him 69; 148 ballots for Republican Presidential electors, whereas the returns gives them 150; and that there were but 140 ballots for Republican candidate for governor, though the return gives him 143. (Record, p. 399.)

It is claimed that these ballots in the box are better evidence of the result than the testimony of the voters.

As to the testimony of this clerk, it is sufficient to say that there is no law in Florida providing for the preservation of the ballots for the purpose of being used as evidence; the ballots are not evidence sufficient to overcome the testimony of the voters where the question of fraud and tampering with the ballot-box is raised. (McCrary on Elections, sec. 276; *id.*, 439; Washburn *vs.* Voorhies, 2d Bartlett, 54.)

McCrary says in "such a case the ballots might sustain the fraud." McCrary, sec. 439; also Reed *vs.* Julian, 2 Balt., 822.)

These ballots cannot be entitled to much weight as evidence of the result of the election, where it has been shown that the acts and conduct of the election officers are unworthy of credit, and their returns set aside and regarded as unreliable. Having created for themselves, in violation of law and their official oaths, opportunities for tampering with the box, it is legitimate to infer that they would endeavor to put ballots in the box that would support the return.

But it will be seen that, comparing the votes returned with those in the box at the time the testimony was taken, that the return gives contestant *one* more vote than there was in the box, the Republican Presidential electors *two* more, and the Republican candidate for governor *three* more.

This small discrepancy we think is significant. It is hardly possible that election officers, proceeding in the orderly discharge of their duties, could make the mistake of returning *more votes* for the candidates of their opponents than there were ballots cast for them, and this discrepancy induces the belief that, in placing ballots in the box for the purpose of having the number thereof the same as the number of votes given in the false return which they made, they committed an error in their count.

The sitting member has urged that contestant's vote was reduced at this poll by the voting of a ballot not containing the name of any candidate for Congress. For convenience we will distinguish this from the other ballots by designating it as a bogus ballot.

Your committee do not find any evidence to sustain this claim of contestee.

The proof is that the Republicans in this county were divided into factions, and run two distinct tickets for the State legislature. These factions were known as the Walls and Dennis factions, the former being a candidate for the Senate on one ticket, and Dennis for the assembly on the other. The specific claim and theory of contestee is, that at this poll the Dennis faction voted a ticket blank as to the office of Representative in Congress. The only evidence of such bogus tickets being voted is that they were found in the box. But we have already shown that on an issue of this kind, where the officers are charged with fraud, the ballots are not sufficient evidence to outweigh the testimony of the voter.

Contestee has not attempted to prove, by direct evidence, that a single elector voted such a ballot. He has not attempted to prove that any one at the polls on the day of the election attempted to induce any voter to vote such a ballot. On the other hand, contestant has proven by Walls, who resides in this election district, that he did not see any one canvassing against or opposing contestant on election day; and by Charles Dubose, an ardent supporter of the Dennis faction, that he distributed the tickets of this faction, and that contestant's name was on them. Dubose was chairman of a club, having 164 members, a list of the names of which is put in evidence. (Record, pp. 191, 196, 284.)

The testimony of the 259 voters sworn as witnesses for contestant establishes the fact that 260 electors voted for contestant, and that Walls and Dubose distributed the greater part of the Republican ballots at the polls; and this, in the absence of any evidence showing that these bogus tickets were actually voted, is conclusive that these ballots were fraudulently put in the box.

There is some evidence that Dennis, a candidate for the legislature,

professed at times to be opposed to contestant's election (record, p, 141), and there is also some evidence that such opposition, if any made. had been withdrawn before the election. (Record, p. 988.) As before stated, the testimony of the voters, as against any evidence adduced, is conclusive on this point, but the returns from the polls, unassailed proves beyond controversy that the contest between the two Republican factions had no effect upon contestee's vote. There were in this county seventeen polling places; at three of these polls fraud is alleged and proven by the testimony of the voters, and at the other fourteen polls the returns give the contestant about the same number of votes as both Republican local tickets received, and in some of the election districts adjoining, and in close proximity to this election district of Arredonda, the contestant's vote exceeds the combined vote received by both of the Republican legislative tickets. We regard this as conclusive evidence that all the Republicans voted for contestant as solidly as if they had united on one legislative ticket.

Again, it is not clearly shown who had these bogus tickets printed; if done by contestee's associates, he could easily have shown it. Nor would the voting such bogus tickets have increased the number of votes for the sitting member; whereas he and all the Democratic candidates have on the returns 172 votes, as against 66 votes two years previous, a gain of about one hundred and seventy per cent., without explanation, and besides shown to be fraudulent by the testimony of the electors themselves. This disposes of all questions raised as to this poll, and your committee decide that the contestant is entitled to have 260 votes counted for him at this poll, or 191 in addition to his returned vote; and as contestee has not proven any votes for himself, none can be counted for him.

NEWNANSVILLE POLL.

The charge is made that fraud was committed at this poll by stuffing the ballot-box with Democratic ballots. Two hundred and ninety-six votes were returned, 150 for Bisbee and 146 for Finley. (Record, p. 19.)

By the electors called and sworn as witnesses it is proven that 168 votes were cast for contestant; 18 in excess of the number returned. (Record, pp. 23 to 65, and pp. 296 to 313.)

It is also clearly proven that when the polls closed there were 29 more ballots in the box than names of electors on the poll-list, which excess was drawn out and destroyed (Record, pp. 31, 182, 185); that Democratic ballots were found in the box folded together, which were counted; that before the ballots were counted a Democratic officer stirred or mixed the ballots up with his hand (Record, p. 183); and, after drawing out and destroying 21 ballots, on a second count, 8 more in excess of the poll-list was discovered, which were drawn out by the Republican inspector.

It is proven that 5 of the 8 so destroyed were Republican ballots, and that the greater portion of the other 21 were also Republican ballots. We conclude from the evidence that this excess was caused by the voting of two or more ballots by one voter, and that this was done by the supporters of contestee. Rollins testifies that he was in the polling room and kept a tally sheet, and from the appearance of the ballots and the known fact that 175 Republicans voted (of whom one did not vote for member of Congress, Record, p. 43), and that the most of the ballots destroyed were Republican, that 174 votes were cast for contestant. There was 150 votes returned for contestant; five of the eight last destroyed being Republican, on the theory that illegal Democratic ballots took their place, would make 10 more votes for contestant in the final result; and

on the same theory if 7 of the other 21 votes destroyed were Republican, it would make 14 more votes, and in all 174, which Rollins testifies to. There would still be 121 votes to be accounted for to equal the number of voters on the poll-list.

On the part of contestant it is insisted that the return should be rejected, and only the votes otherwise proven counted. And our attention is called to the case of Washburn *vs.* Voorhies (2d Bartlett's Reports, p. 54), where returns were rejected on proof of an excess of votes proven for one candidate over his returned votes of about *eight* per cent., and at one poll of *four* per cent. of the total vote returned.

McCrary says (sec. 371), "It is very clear, that if the returns are set aside, no votes not otherwise proven can be counted." The supreme court of New York, in 7 Lansing, 274, and other authorities, have declared and applied this as a settled principle, which we do not propose to overrule.

Another well-settled principle is that no poll shall be entirely set aside if the return can be corrected with reasonable certainty. The only correction of the return which, from the evidence, could possibly be made would be to count 174 votes for contestant and 121 votes for contestee. While we think this would approximate the probable true state of the vote at this poll, we cannot say from the evidence that such a result is reliably proven. The only other disposition that can be made of this poll is the rejection of the returns and count no votes save the 168 proven, for contestant, and from the views we have taken of the whole case it is not material to the final result which alternative is adopted.

PARKER'S STORE POLL.

This poll is also assailed by contestant, who avers that the return is a false statement of the votes cast.

There were but 306 votes returned for Representative in Congress, 151 for Bisbee, and 155 for Finley. (Record, p. 262.) There are 336 names on the poll-list. (Record, p. 374.)

It is satisfactorily proven by the electors sworn as witnesses for contestant, that 179 votes were cast for him instead of 151, returned, an excess of 38 votes. (Record, pp. 323 to 371.) There were ballots in the box at the close of the election in excess of the poll-list to the number of six or seven (Record, p. 355), and five votes tendered by Republicans and rejected, which are included in Exhibit A of the appendix.

This excess of 28 votes proven for contestant over the number returned for him, is not explained in any manner by the testimony. Whether it is the result of fraud in the officers of election, or of gross carelessness in the count, there is no proof to show, but, upon the testimony adduced, it must have been one or the other. In counting so small a number of votes it is wholly improbable that the election officers innocently made the mistake of suppressing 28 votes for contestant—nearly one-sixth of the total vote cast for him. Contestee has not taken any testimony with respect to this poll, and we are required to dispose of this question upon the evidence in the record.

There is no evidence by which the return can be corrected. The return is proven to be unreliable as evidence of the true vote, and the latter cannot be ascertained by any other evidence.

We think, therefore, that this return should be set aside, and that no votes not otherwise proven should be counted.

It may be claimed that it would be proper to credit contestee with the difference between the returned total vote and the number proven

for contestee, but this would be an assumption without evidence and an evasion of the rule that when a return is rejected each candidate must prove his vote by other evidence.

If legal votes were cast for contestee he had an opportunity to prove them, but has neglected to do so.

MADISON COUNTY.

In this county the committee find from the evidence that a systematic scheme of stuffing the ballot-boxes at all of the Republican polls with Democratic ballots was adopted by the political opponents of the contestant, thereby creating an excess of ballots over the poll-lists, and that at the subsequent canvass the officers of the election drew from the ballot-box and destroyed Republican ballots to the extent of such excess, and that by this method the contestant's majority in this county was reduced several hundreds of votes.

They further find that the contestant attempted, in accordance with a settled principle of law, to call as witnesses all the known Republican electors at the several Republican polls where this ballot-box stuffing occurred, for the purpose of establishing his true and lawful vote by proving by their own testimony that they voted for him. For this purpose contestant's attorney, accompanied by a proper officer, preceded to this county to take the necessary depositions. On the day succeeding their arrival, as disclosed by the evidence, an altercation occurred between a witness whose testimony had been given the day preceding in behalf of the contestant and one Patterson, who had been accused of election frauds, which altercation resulted in the death of Patterson in the presence of the officers engaged in taking the testimony.

This act occasioned the immediate suspension of taking the testimony in this county. Great excitement ensued, and the State militia were called out to aid in preserving the peace. So violent were these proceedings that the contestant's attorney and the officer engaged in taking the testimony were compelled to seek safety by flight, and this officer was afterwards arrested and imprisoned for several weeks, and finally discharged by the order of the supreme court of the State. For about a month contestant's attorney was prostrated by so serious an illness, resulting from exposure and fatigue, as well-nigh proved fatal, preventing all attention to business.

At the request of the Department of Justice, the United States judge in Florida and the marshal of that State proceeded to this county to take the testimony for the contestant, but were compelled to abandon the effort, as it was found to be impracticable in the then existing state of public excitement. Many witnesses who had testified before the United States court at Jacksonville, in the previous month of December, exposing the frauds in this county, became so alarmed by threats of violence of political opponents—one of their number, indeed, having been in the meantime shot and severely wounded—would not return to their homes.

As soon as contestant's attorney, who had the general charge of his case, recovered sufficiently to attend to business, he endeavored to secure the services of other attorneys politically friendly to the contestant to take this testimony, but without success, as they peremptorily declined to go into this county and others into which the excitement had extended.

At this juncture of affairs, contestant, then sitting as a member of the Forty-sixth Congress, employed an attorney residing in Washington,

D. C., to represent him in taking the depositions, in Jacksonville, of the witnesses who were refugees from Madison County, and to proceed thence to Alachua County to take the testimony there.

The committee are of the opinion that the foregoing evidence satisfactorily demonstrates the causes which prevented the contestant from establishing his vote at the polls in the county of Madison, tainted with fraud by the testimony of the voters themselves. To detail at length all the occurrences in this county as disclosed by the evidence would enlarge the report beyond proper limits, and therefore the statement will be condensed as much as possible.

It is in evidence that the Democratic ballots voted in this county were not more than half the size of and of finer quality of paper than the Republican ballots, and could be readily distinguished from the latter by even the sense of touch. This fact is established by the testimony of the witnesses of both contestant and contestee, and by specimens of ballots in evidence, and it is unnecessary to further allude to the evidence on this point. Likewise, upon the question of an excess of ballots, and of two or more having been folded so that one would be partially inclosed in another, and in such manner as when handled or shaken they would separate, there is no disagreement between the witnesses of the contestant and contestee.

The testimony of Carroway Smith, an election officer at poll No. 1, Madison County, a political friend of contestee, reads as follows upon this point:

At the closing of the poll at the time required by law, which time was sundown, we obtained lights and proceeded to canvass the vote by first ascertaining how many votes have been cast from the poll-list; one of the inspectors counted the ballots in the box, which were in excess of the number of votes cast as shown by the poll-list; they were counted rather hurriedly, as I thought, and not wishing to have any mistake, I then counted them, examining every ticket carefully, and found out that there was an excess, I think about fifty votes; I counted them over a third time, with the assistance of Mr. Forrester, Mr. Gambier being there, standing by the box, and found that my second count was correct. What I mean by examining every ticket carefully, that after counting a few votes we found a ticket laying in another, and it was unanimously decided by the inspectors that it was not a double ticket, Mr. Gambier giving his opinion first; I found a good many in the same way, which accounts for the difference in the excess of the first and second counts, the first excess being about between twenty and twenty-five. We then proceeded to draw out said excess. Mr. Forrester, with his back to the box, did the drawing, and placed the drawn ballots in my hat, held by me for that purpose. After drawing outs said excess, I took them to the middle of the room without examination, placed them upon the floor, and some one of us, Mr. Blackwell, I think, the United States supervisor, set them on fire; we then proceeded to ascertain for whom the remaining votes were cast in the manner required by law. (Record, p. 1017.)

The committee find that the sitting member did not examine any witnesses with regard to any of the polls in this county except polls Nos. 1 and 2 in the town of Madison, and that his witnesses support the testimony adduced by contestant concerning difference in ballots, excess over poll-lists, and the folding together of the same; that the contestee did not interrogate any of his witnesses as to the character of ballots drawn out and destroyed, whether they were Democratic or Republican; and as it was a very material thing to be established, the inference to be drawn is, that the contestee's attorney was aware of the fact that in the main they were Republican ballots, and that the testimony on behalf of contestant, taken before contestee examined his witnesses, establishes the fact that they were Republican ballots thus drawn out and destroyed. From this evidence the committee concludes that the following Republican ballots were drawn from the ballot-boxes and destroyed, to wit: At the Greenville poll, 52; at the Madison poll No. 1,

52; at Madison poll No. 2, 14 votes, and that 20 more in excess on the second count were counted, which added that number illegally to contestee's vote; at Cherry Lake poll, 14 votes, and at Mosely Hall, No. 4 poll, not less than 10 votes.

The committee are therefore of the opinion that the frauds thus committed at the five polls last mentioned should be corrected by adding 142 votes to the contestant's vote, and deducting 162 votes from contestee's vote. By thus correcting and purging the polls in question the contestant's majority at the five polls will be increased 304.

The evidence likewise establishes the fact that not less than *eight Republican electors*, duly registered, offered to vote at the Greenville poll, and declared their willingness to take the oath of a challenged voter, but were denied the right to vote. (Testimony of McKay, Record, p. 929. Testimony of Stripling, Record, p. 943.

It is also proven that at the Cherry Lake poll two Republican electors were illegally denied the right to vote (Record, pp. 914 and 921), and that one illegal Democratic ballot was cast at this poll, the person casting it not taking the oath of a challenged voter though challenged as a minor. (Record, pp. 915–922.)

It is further established by the testimony of Watt S. Gheater, United States deputy marshal, that 13 Republican electors were illegally denied the right to vote a Republican ballot at the Mosely Hall poll No. 4 (Record, pp. 940, 941), and his testimony remains unassailed by any other testimony. There were ten polling places in this county from all of which returns were made by the officers of the election, and certified copies thereof are in evidence (Record, pp. 869 to 885). From these 10 returns, duly signed by the officers of the election, it appears that 1,380 votes were returned for Finley and 1,488 votes for Bisbee, or a majority for contestant of 108 votes.

The official county return (Record, p. 860) gives Finley 1,055 votes and Bisbee 1,014 votes, or a majority for Finley of 41 votes instead of 108 majority for Bisbee on the face of the ten district returns. This discrepancy arises from the fact that the votes returned from the two polls known as Madison No. 2 and Cherry Lakeare not included in the county returns. From these two polls 325 votes were returned for Finley and 474 votes for Bisbee (Record, pp. 871, 881), which added to the votes of the respective parties in the county return make the exact number of votes given for Finley and Bisbee in the ten district returns in the county. The committee are of the opinion that the omitted returns from Madison No. 2 and Cherry Lake polls, being unassailed, should be counted.

	Finley.	Bisbee.
The vote there, as officially returned by the election officers, is	1,380	1,488
Deduct 162 from Finley for excess taken out and destroyed	162	.....
And add 142 to Bisbee for same	.....	142
Also, add 23 tendered and refused for contestant, and deduct 1 illegal vote from contestee	1	23
	1,217	1,653

Majority for Bisbee of 436, instead of 108 as returned.

If there were any doubt of the correctness of the foregoing conclusion, the committee find other evidence of a positive, confirmatory character, calculated to produce the conviction that the contestant's majority in this county was even larger than 436.

Without pausing to dwell upon the testimony relating to the returns from the Republican poll known as Hamburg, which in the recent election gave the contestant but 64 majority, while at the election in 1878 it gave him 112 majority—the total vote cast in 1880 being greater by

24 votes than in 1878, and the names of 278 known Republican electors on the poll-list, in a total number of 447 (Record, p. 1176)—thereby increasing his majority in this county to 481, we pass to the brief consideration of another point in confirmation of the foregoing conclusions.

The history of the politics of Madison County shows that the Republican majority for Representative in Congress for the three elections prior to 1880 was as follows, to wit:

	Votes.
In 1874 Republican majority was	469
In 1876 Republican majority was	439
In 1878 Republican majority was	453
General average majority was	453

The excess of the total vote of the county over that of 1876, when the Democratic candidates polled the largest vote that party ever received, is 245, and the testimony establishes the fact that this excess was the result of natural increase, and the greater portion of it was polled in Republican districts. (Testimony of Dennis Eagan, Record, p. 1203.) Should this excess be distributed *pro rata*, according to the vote of 1876, when the parties to this controversy were candidates, the contestant's majority would be about 480 votes.

Again, it is in evidence that in this county, as generally throughout the State, a separate election was held by the Democratic electors to nominate ten county officers for appointment by the Democratic candidate for governor in case he was elected. This election was held, not in pursuance of any law of the State, as under the State constitution county officers are appointed by the governor, but under the following resolution of the Democratic State Convention:

Resolved, That this convention recommend the appointment of such county officers as may be chose and elected by the conservative democratic voters assembled in their several counties on the day of the general election; such election to be by ballots and to be conducted in such a manner as to obtain a full and free expression of the wishes of the voters who act with us in supporting the nominees of this convention.

The Democratic State or Congressional committee had the management of this separate election and issued the following instructions, to wit:

All persons who desire to vote for county officers must *show their ticket to the precinct committees before they vote.* No person who votes for Conover, Ledwith, or Bisbee can vote for county officers. (Record, p. 1058.)

This separate election, we infer, was to remove in some degree the objections to the exercise by the governor of such large appointing power, and the rivalry among so many candidates would assuredly bring to the polls the full vote of the party.

The evidence shows that the total Democratic vote cast at this informal election was 1,175, and that the highest Democratic vote ever before cast in this county was 1,082, in the year 1876, *which was 93 less than cast at these separate polls in* 1880, *at which no Republican vote was permitted to be cast.* Concede that 1,175 votes is the full Democratic vote of the county, and the following result appears, to wit: The entire number of names of electors on all the poll-lists in 1880 was 2,848. Deduct as full vote of contestee, 1,175; vote for contestant would then be 1,673; contestant's majority, 498.

On this branch of the case reference is made to the testimony of Eagan (Record, p. 1203). Nevertheless, the committee, with a view of removing all doubt, concluded to count only for the contestant the foregoing majority of 436, the number which the evidence conclusively establishes the contestant entitled to beyond cavil or dispute.

Correcting the vote, according to our conclusion, upon the issue already

decided, the contestant's election is apparent, even conceding that all the votes at the Newnansville poll and Parker's Store poll, Alachua County, not proven for him *aliunde* the return, should be counted for contestee.

In other words, correcting the frauds by counting the votes as they were cast, in Alachua and Madison Counties; adding votes for contestant tendered for him and illegally refused, and deducting illegal votes cast for contestee, the election of contestant is established, as will appear in the tabular statements at the close of our report.

Other questions have been presented by contestant, which we will now state and dispose of.

BREVARD COUNTY.

The laws of Florida require a registration of the electors, and the constitution of that State commands "that no person not duly registered according to law shall be allowed to vote."

The law requires one general registration book for each county, and also another registration book for each election district into which the county is divided; and these district books are the original books of registration, in which each voter must write his name, or have it written by the registrating officers, and take the oath of allegiance to the State and to the United States, which oath is to be printed or written at the commencement of the book. Opposite the voter's name must appear, in proper order, the number of the election district in which the voter resides, and the day, month, and year of his registration.

The law provides for copying by the clerk of the circuit court the names on the district books into the general registration book. This clerk is the registrating officer for the election district in which his office is located, and he appoints a registrating officer for each of the election districts of the county.

The registration must be closed ten days before the day of election, and a certified copy of the district book is to be delivered by the sheriff to the election officers, which copy is the legal evidence to the officers of the election of the fact of registration, and of the qualification of the electors whose names are on such copy.

The contestant asks that the entire election be set aside in this county, and that no votes shall be counted for either party, on the ground that the election was held without any registration in conforming to the law.

The evidence relied upon consists of the testimony of one James A. McCrory, the deputy clerk of court, who had charge of the clerk's office, and who performed, as it appears, such duties as were performed, in this county preparatory to the election. (Record, pp. 403–405.)

This deputy clerk was a Democrat, and was examined as a witness on behalf of contestant. It is proven by his testimony that no registration books were provided or used in this county, and that the only semblance or pretense of registration of the electors consists of "loose sheets of paper" containing the names of citizens, which were brought into the clerk's office by the registrating officers from eight election districts.

The whole number of such districts was twelve, and fron the other four this deputy clerk testifies that even such lists of names "on loose sheets of paper" were not made and brought to the clerk's office. McCrory can only name one district from which such irregular lists of names were returned that contained oaths required by the law to be

taken and subscribed by the elector and registration officers. (Record, p. 405.)

It has been called to the attention of your committee, that it was proven by the clerk of the court, and other witnesses, in the contested election case of Bisbee *vs.* Hull, that there were no registration books provided or used in this county at the election of 1878.

It also appears that a statute of Florida, passed in 1879, a considerable portion of the territory of the adjoining county of Volusia, was added to this county, Brevard, consequently it cannot be claimed that any of the citizens residing within this portion of the county had the right to vote by reason of any prior registration. And this new part of the county is included in that containing the eight election districts in which these lists of names "on loose sheets of paper" were made and delivered.

The registration books, under the laws of Florida, are public records, and the clerk of the court is the legal custodian of them. This deputy, who had charge of the office, could not well be ignorant in regard to the subject-matter of his testimony, and he evidently testified with some reluctance, which may be accounted for from the fact that he was a political associate of contestee.

According to this testimony it is manifest that *the entire foundation for a legal election in this county was wanting.* As to the four districts in which not even the irregular lists of names "on loose sheets of paper" was made, there can be no pretense that there was any registration of any kind whatever. From these four districts 63 votes were returned for contestee, and 12 for contestant.

As to the other eight election districts, it can hardly be claimed that "loose sheets of paper" are registration books, such as the law requires. They could be manufactured, abstracted, and substituted at pleasure, with slight risk of detection.

To sustain this as a legal registration would do violence to the provision of the constitution and laws of Florida, would destroy all the safeguards against the frauds at elections which registration laws are intended to prevent, and would, we think, furnish greater facilities for fraud than the absence of any registration at all.

Your committee therefore hold that the election in this county must be set aside as illegal and void.

The principle is so well settled that an election held without registration, under laws requiring registration, is illegal, that the citation of authorities is deemed unnecessary.

The returns from this county give the sitting member 222 votes, and the contestant 74 votes, which are excluded from the count.

HAMILTON COUNTY.

It is charged by contestant that the result of the election at poll No. 3 in this county was affected by the use of intoxicating liquors, force, violence, and disorderly conduct, resorted to by the political friends of the contestee; that the authority of the United States supervisors and a deputy marshal were publicly defied, and that the officers of the election approved of such action and conduct, and discriminated illegally and corruptly against the Republicans in the management of the election and reception of votes.

Your committee find from the evidence that these charges are substantially sustained, and that the election at this poll was not, in any just sense, a free and fair election.

It is proven by a number of witnesses that the political supporters of contestee, in several instances, led colored men to the polls in a state of intoxication, which they had designedly produced, and forced them to vote a Demociatic ticket; and that from the efforts of Republicans to prevent such conduct and to secure the right of each elector to vote a free ballot, violent quarrels ensued in front of the polling window, and that the immediate vicinity of the polls was a scene of disorder, lawlessness, and threats of personal violence, continuing a considerable portion of the day, and that by such means the result of the election at this poll was effected.

Reference is made to the testimony of John W. Rackley, an Independent in politics, and late clerk of the Florida senate (Record, p. 1183); of E. J. Roulesson, United States deputy marshal (Record, p. 1189); B. E. Roulesson (Record, p. 1204); Isham Guillion (Record, p. 1193); and Cato Williams (Record, p. 1208).

Williams was one of the electors who was made to vote a Democratic ballot while intoxicated, and he certifies that he voted such ticket, contrary to his intentions, and was so drunk that one of his Democratic neighbors had to carry him home on a mule.

Guillion gives the names of certain voters whose votes were obtained for the Democratic candidates by the threat of depriving them of land they had contracted for if they voted otherwise.

The deputy marshal testifies that at about two hours before sunset there was not a dozen sober men at the polls.

It is proven that the officer of the election who received the ballots sat in the window of the polls with a revolver exposed upon his person; that the officers allowed one man to vote a Democratic ticket who had been convicted of an imfamous crime, and refused the vote of a Republican elector who had been charged with such a crime, but had never even been tried for it, though he offered to take the oath of a challenged voter; and that these officers allowed a Democratic elector to vote in the polling-room unobserved after he had been challenged and refused to take the oath of a challenged voter and vote publicly. The deputy marshal was compelled to abandon any effort to preserve order through fear of his life, and the officers of the election made no effort to preserve the peace and an orderly conduct of the election, which they had sworn to do, but acquiesced in all that occurred. Rackly and the two Roulessons testify that in their judgment, by the methods described, the contestant lost from 20 to 30 votes and the sitting member gained from 20 to 30 votes. It is also proven that printed posters were placed upon the polling-room and at other places near the polls, by the Democratic United States supervisors and other persons, warning against any interference by the Federal authorities.

The whole conduct of election officers may, though actual fraud be not apparent, amount to such gross and culpable negligence, such a disregard of their official duties, as to render their doings unintelligible or unworthy of credence, and their actions entirely unreliable for any purpose. (McCrary, sec. 303.)

If it clearly appears that the fairness, purity, or freedom of an election has been materially interfered with by acts of violence, intimidation, &c., the election should be set aside. (*Id.*, sec. 416.)

We are of the opinion that the election at this poll falls under the condemnation of the doctrines stated by McCrary in the section quoted, and that the election should be set aside. The vote returned from this poll is, for Finley, 136, and for Bisbee, 68, which must be deducted from the official canvass.

ORANGE COUNTY.

The paper purporting to be a return from the poll in this county known as Fort Christmas is not signed by the officers of the election, as appears from a certified copy thereof in evidence, and it is proven that these votes stated in this paper were included in the official returns from the county. (Record, pp. 1129 and 76.)

Such a return is illegal, and no votes stated therein can be counted. (McCrary on Elections, secs. 174 and 274.)

This document states that Finley received 30 votes and Bisbee 3 votes, which we deduct from the count.

NASSAU COUNTY.

It is averred in the notice of contestant that an officer of the election of Odum's Branch poll in this county committed the fraud of substituting Democratic for Republican ballots.

It is proven by three witnesses, sworn on behalf of contestant, that one of the officers of election placed a Democratic ballot in the ballot-box, not delivered to him by an elector, in lieu of a Republican ballot that was delivered to him by an elector. The sitting member adduced no testimony controverting that of these three witnesses.

It is claimed that this return should be excluded, on the principle that if an officer of election is clearly shown to be guilty of deliberate fraud in a single instance, all his acts are tainted with dishonesty, and the *prima facie* character of the return, as evidence, is destroyed (McCrary, Secs., 441, 442, 303).

The application of this principle would reject this return, but as the testimony establishes that this act of changing one ballot was done soon after the polls opened, and was not afterwards repeated, and the total vote was small, we have concluded to retain the return, and correct it by deducting one vote from Finley's vote and adding one vote to Bisbee's vote.

MARION COUNTY.

Objection is made to counting the votes stated in the Moss Bluff return in this county. The proof relied upon by contestant to exclude this return consists of the testimony of three witnesses.

The substance of all their testimony is that the supporters of the sitting member voted ballots which they took from a table in the polling-room; that during the day it was discovered by two of these witnesses that contestee's name was not on the ballots on this table. One witness, Heath (Record, pp. 578, 519), swears positively that he examined 25 to 30 of such ballots on the table from which the Democratic electors took their ballots, and that contestee's name was not on them. Another witness, Sellers (Record, pp. 516, 518), swears that he was present when the names of the candidates on the ballots voted were read to be tallied, and that contestee's name was not called out, at least if it was the witness did not hear of it.

All the officers of the election were political friends of the contestee, and it is proven that as the names of the candidates for each office upon a ballot were announced by one of the officers he handed the ballot to another officer of the election, who immediately tore it up and destroyed it, instead of laying the ballots aside until all of them had been canvassed.

The contestee has not attempted to explain or disprove the testimony taken by contestant, and for this reason it is urged that he could not.

It is true that the contestee could easily have proven that his name was upon these ballots voted by his supporters, if such were the fact, and by not doing so he has left the impression to operate that he could not, but the voters may have written contestee's name on their ballots, and there is no evidence that they did not, except the testimony tending to show that his name was not read when the votes were canvassed.

The elector who voted for the other Democratic candidates doubtless intended to vote for the contestee, and as the witness for contestant is not entirely positive that the name of contestee was not read from the ballots when they were canvassed, we have concluded to count the vote at this poll as returned.

BRADFORD COUNTY.

It is claimed by contestant that at the four polls in this county, known as Nos. 2, 3, 5, and 7, 76 persons voted who were not registered voters.

The evidence relied upon is a certified copy of the registration book of the county, dated November 29, 1880, a certified copy of the list of names stricken from such book, at the annual revision thereof by the county commissioner, in the year A. D., 1878, and 1880, and also a certified copy of such book, dated March 15, 1877, purporting to be a copy of all the names registered on that date, from 1868, when the registration laws were first passed. (This last copy is in the record of the case of Finley *vs.* Bisbee, Forty-fifth Congress, page 758, offered in evidence at the argument of this case.)

The total number of votes returned from these four polls is 590, of which but 47 are returned for contestant. The poll-lists are in evidence, showing that the 76 persons voted, and if their names are not on the said certified copies of the registration books and lists of names stricken from such books, there being no evidence to the contrary, these votes are illegal. If deducted *pro rata*, according to the rule applied, where as in this case it is not shown for whom such votes were cast, 70 should be deducted from contestee's vote, and 5 from contestant's, one vote being lost in fractions by this method of deduction.

As the decision of this question will not affect the final result on the merits of the case, your committee have not performed the work of examining the copies of the books and lists of names to ascertain whether or not the 76 persons, or any of them, are registered, and therefore have not deducted the votes of these persons in the tabular statement of corrections of the official vote.

According to the conclusions to which we have arrived, the official returns must be corrected as follows:

	Finley.	Bisbee.
The total official vote returned is	13,430	12,427
Add to contestant's vote the votes tendered and rejected (Exhibit A)	.....	269
Deduct from contestee's vote the illegal votes cast for him (Exhibits B and C)	96	.....
Deduct from contestee's vote at the Arredonda poll, 172; Newnansville poll, 146; Parker's Store, 155	473	.....
And add to contestant's vote the votes proven at said polls in excess of his returned vote, Arredonda, 191; Newnansville, 18; Parker's Store, 28	.....	237
Madison County, deduct from contestee	163	
And add to contestant	.....	165
Nassau County, Odwin's Branch poll, deduct from contestee	1	
And add to contestant	.....	1
Total of above corrections	733	672

	Finley.	Bisbee.
Which deducted and added to the official vote, gives the following result	12,697	13,099
To be still further corrected by deducting contestee's returned vote and contestant's returned vote in Brevard County	222	74
Deduct returned vote at No. 3 poll, Hamilton County	136	68
And at Fort Christmas poll, Orange county	30	3
Total	388	145

Which deducted from the last-stated result gives for Finley, 12,309; Bisbee, 12,954, and a majority for Bisbee of 645.

Now concede to contestee at the two polls of Newnansville and Parker's Store, Alachua County, the difference between the total returned vote for Representative, and the votes proven for contestant, and 255 votes would be deducted from Bisbee's majority, leaving him 390 majority. And even if the polls in Brevard County, No. 3; Hamilton County, and Fort Christmas poll, Orange County, were not rejected, contestant would still have a majority of 147 votes.

In any view of the case founded upon the law and the evidence, the contestant has a majority of the legal votes cast.

It ought, however, to be stated:

Contestee claimed before the committee that a portion of contestant's evidence was taken after the expiration of the first forty of the ninety days allowed by statute (Rev. Stat., p. 1071) for the taking of testimony, and that some of that which was taken during the ten days allowed for rebuttal was not strictly in rebuttal, and that all such should be rejected and not considered by the committee.

It appears that contestant has given notice of the taking of a large number of witnesses, and proceeded to take them as fast as he could, but at the expiration of the forty days, to wit, on March 15, he had not got through with his list, and continued till they were finished, on the 16th, 17th, 18th, 19th, 21st, 22d, 23d, 25th, 26th, and 28th of March. Contestee's counsel left and would not remain after the 14th of March.

It is claimed, and the record sustains it, that contestee had consumed a great deal of time unnecessarily by his method of dilatory and useless cross-examination, probably with the object of delaying the taking of testimony.

It also appears that scenes of violence and public disorder prevented contestant's attorney from going into some parts of the district where the witnesses lived, so that he was thereby deprived of much of the first forty days.

It also appears that contestant did not occupy any portion of the forty days needed by contestee, and that he was not prejudiced at all by contestant's continuing to finish his witnesses after March 15, for contestee did not begin to take testimony in Madison county until the 16th of April; did not commence in Alachua County until the 13th of April, two weeks after contestant had got through. He examined altogether but fifty witnesses, occupying but sixteen days. Ten of these were examined on the question of the popularity or unpopularity of the candidates.

Contestant offered to agree to give his opponent all the time he wanted to answer the evidence objected to (record, p. 1066), and urged him to proceed to do so if he desired, and he obstinately refused, although he knew that testimony taken after the expiration of ninety days on consent of parties would be received, for such had been the case in his contest against J. S. Walls, House Mis. Doc. No. 58, first session Forty-fourth Congress.

He knew of the other facts stated and of the illness of counsel which had delayed the taking of the evidence entirely within the first forty

days. And the committee think that a fair-minded man would have been most likely to enter into an agreement allowing further time, and he must be presumed to know the previous practice of the Committee on Elections to exercise discretion in such matters.

It is also evident that most and probably all of the evidence to which he now objects did not admit of an answer, as his attempt to answer other evidence of the same kind to which he does not object proved ineffectual. That taken during the last ten days was such from its nature that it could not be contradicted or its force impaired by any counter-evidence.

It is manifest therefore that contestee did not suffer and was not prejudiced by any delay or the acts complained of.

No complaint is made or pretense set up that the evidence was not fairly taken and accurately reported. He had full opportunity to cross-examine if he desired to do it, and also to answer it after the same was taken. But he did not choose to do so, and preferred to take the risk of its being considered. After the case was referred to the committee and printed, he did not appear or make any motion to strike out the evidence objected to, so that it might be supplied if the motion was granted, but took the objection for the first time at the argument.

The committee are clearly of the opinion that the evidence taken after the expiration of the forty days should be received and considered, and they have considered it; that the evidence taken in rebuttal should also be considered. All of the evidence was taken within the ninety days allowed by statute, so that in that respect the statute was literally complied with, and the forty days allowed contestee was more than sufficient for his purposes, as he did not begin until about two weeks after contestant had finished, and then occupied but sixteen days, while he had the offer of all the more time which he desired.

It is manifest that contestee did not believe he could answer the evidence and, in the spirit manifested by his cross-examination designed apparently to use up the time, so as to get beyond the forty days, and by leaving when the forty days were up, and when he knew contestant was going on to finish his list of witnesses, he was seeking some technical advantage if he could get it. The testimony in rebuttal, also taken within the ten days, appears to have been proper and competent, and should be, and has been, considered. The course of the committee seems fully justified by good precedents.

No statute can tie the House down to any rules of procedure.

Its provisions are directory, constituting only convenient rules of practice, and the House is at liberty, *in its discretion*, to determine that the ends of justice require a different course. (McCrary, pp. 353, 358, 359.)

In 1st Bartlett, Rep., 223, 224, a Democratic committee held that if either party desired further time to take testimony after the time had expired, *it was* his *duty* to give notice to his opponent and proceed and take it. and present it to the committee, which would, on good reasons being shown, receive and consider it.

So, too, in regard to rebutting evidence; that rests in the discretion of a court always, even if not strictly in rebuttal. (Reed *vs.* Kneeas, Brightley's Election Cases, 416; Richardson *vs.* Stewart, 4 Birney, 197.)

Evidence taken seems to have been in rebuttal, and was such as not to admit of being answered or controverted, and the precise order of same is immaterial.

Votes proved to have been cast illegally for contestee, by evidence

taken during the last ten days: 15 in Duval, 12 in Putnam, 12 in Saint John's; 39 in all.

The whole number of votes tendered and refused, and those for contestee proved to be illegal involved in all the evidence taken during last ten days, is precisely 178.

All the rest is in Brevard, showing no registration; and No. 3, Hamilton poll, assailed for fraud and illegality.

If the 178 are cast out of the majority of 442, this would still leave 264. So the objected evidence, if rejected, would not change the result in favor of contestant.

Your committee therefore recommend the adoption of the following resolutions:

Resolved, That Jesse J. Finley was not elected as a Representative to the Forty-seventh Congress from the second congressional district of Florida, and is not entitled to the seat.

Resolved, That Horatio Bisbee, jr., was duly elected as a Representative from the second congressional district of Florida to the Forty-seventh Congress, and is entitled to his seat as such.

A. A. RANNEY.
W. H. CALKINS.
J. T. WAIT.
F. JACOBS, JR.
WM. G. THOMPSON.
GEO. C. HAZELTON.
AUGUSTUS H. PETTIBONE.
S. H. MILLER.

EXHIBIT A.

List of names of electors whose votes were tendered and refused, citing page of record where testimony will be found.

MARION COUNTY.

No.	Names.	Affidavit in record.	Voting precinct.	Testimony in record.
		Page.		*Page.*
1	Anderson, Charles	607	Flemington	
2	Barbor, Samuel	607	do	490
3	Buce or Reese, Harley	660	Cotton Plant	496–501
4	Bennett, Moses	636	Millwood	434
5	Burney, Ned	619	o	
6	cBorco, Paul, jr	564	Cotton Plant	501–505
7	Boyd, Joseph	639	Millwood	462
8	Bright, Jesse	548	Shady Grove	548
9	Brooks, Samuel		Flemington	481
10	c. Bostwick, George	564	Cotton Plant	497–501
11	Brown, Amos	601	Flemington	483
12	Calvin, Alex	632	Millwood	434
13	cCarlisle. William	618	Shady Grove	419
14	Carroll, Alex		Millwood	427
15	Caston, David	549	do	469
16	*Colding, Frank		do	427
17	*Colding, Frand		Flemington	483
18	Coleman, Robert	643	Millwood	427–458
19	Contee, Elias	652	do	426
20	Coy, Lon	580	Cotton Plant	501
21	Currie, Asa	576	Shady Grove	531–576
22	Dart, Budd	623	Millwood	457
23	Davis, Daniel	585	Cotton Plant	496–501
24	Davis, Jockey	650	Millwood	427–437
25	c. Davis, Owen			425
26	Davis, Simon		Cotton Plant	496–501
27	Davis, William	589	do	494
28	c. Dickerson, Willis	656	No. S	417
29	Douglass, Henry		Millwood	427–473
30	Douglass, Charles	590	Cotton Plant	494–501
31	Elkins, Manuel		Millwood	427–433
32	Ellis, Joseph	600	Flemington	483
33	Evans, Harry	637	Millwood	443
34	Evans, Joshua		do	452
35	Evans, Rance		Flemington	490
36	Evans, Williams	594	Millwood	473
37	Finley, John	659	Cotton Plant	501
38	Finley, Jonas	582	do	501
39	Foster, Charles	635	Millwood	427–434
40	Foster, Moses	593	do	427–478
41	Frazier, Aaron	599	No. 1	
42	Frazier, Isiah	635	Millwood	429
43	Furgerson, Larry		do	427
44	Galloway, Prince	598	No. S	
45	Gray, John	653	Millwood	448
46	Gaskins, Edmund	651	do	427
47	Gaskins, Robert	645	do	427–451
48	Gaskins, Thomas	641	do	427–472
49	c. Gibson, Jesse	617	Shady Grove	419
50	c. Gilliard, Jack	570	Cotton Plant	498
51	Gray, John	574	do	501
52	Green, Allen		Millwood	469
53	Green, David		do	470
54	Green, Benjamin	625	do	
55	Hamilton, Carolina		do	427–453
56	Henderson, Jack	615	Millwood	473
57	Harvey, James S.	649	do	427
58	Harris, Wash	614	Flemington	483
59	Jackson, Andrew		Millwood	446
60	Jackson, Calhoun		do	443
61	Jackson, David	631	do	440
62	Jackson. Richard		do	455
63	Jacobs. Jack	657	do	477
64	James. George	634	do	427–473
65	c. Jones, Perry	568	Cotton Plant	497–494
66	c. Jones, Philip		No. 2	410–411 412–415
67	Jones, Raymond	600	Flemington	484
68	Johnson, William	648	Millwood	467
69	Kennedy, Henry	658	Cotton Plant	501
70	c. Leman, Harry		Shady Grove	418
71	Leonard, Charles	594	Millwood	473
72	Lewis, Frank	585	Cotton Plant	499

EXHIBIT A—Continued.

MARION COUNTY.

No.	Names.	Affidavit in record.	Voting precinct.	Testimony in record.
		Page.		*Page.*
73	Lewis, Francis	610	Flemington	
74	Lewis, Henry		Lake Wier	506
75	Lewis, James		No. 2	410–411
76	Ladson, Loudon	624	Millwood	442
77	Mason, Olmstead	612	Flemington	483–484
78	McCallum, Wash	592	Cotton Plant	495–501
79	McCradle, Johnson	640	Millwood	447
80	McGee, Lewis		do	435
81	Menchan, A. J	583	Cotton Plant	500
82	Miller, Wiley		No. 2	435
83	Milton, Aaron	572	Cotton Plant	501
84	Mitchell, Joseph	546	No. 2	411–412
85	Mitchell, Martin	586	Cotton Plant	494
86	Mitchell, Simon		Millwood	436
87	Milton, Smith	602	Flemington	483
88	Owens, Harry	621	Millwood	427–450
89	Palmer, Stephen	642	do	476
90	c. * Plair, Robert		No. 2	534
91	* Plair, Robert	646	Millwood	
92	Parks, Louis	621	do	468
93	Pristes, Jasper		do	466
94	Purvis, Green	633	do	465
95	Rawls, Calamus	603	Flemington	481
96	Reddington, Lewis		Millwood	47 bbk.
97	Rivers, Charles	587	Cotton Plant	494–501
98	Roberts, Samuel	609	Flemington	479
99	Roberts, Wash	611	do	481
100	Robinson, Dan	613	do	483
101	Robinson, Wash		do	483
102	Riley, William	596	No. 1	
103	Roberts, Alex	588	Cotton Plant	497
104	Rutland, Thomas		Millwood	427
105	Rutledge, Thomas		do	440
106	Sams, Charles		do	464
107	Scofield, Daniel C		do	475
108	Scarvel, Wary	605	Flemington	483
109	Scott, Frank		Millwood	456
110	Small, Peter	641	do	442
111	Smith, Louis	575	No. 2	533–410 411–412
112	Shaw, Peter	581	Cotton Plant	501
113	Stark, Wyatt		Millwood	427–445
114	Stoggers, Henry	579	Cotton Plant	501
115	Swain, Thomas	584	do	501
116	Taylor, Samuel	631	Millwood	455
117	Terry, Pleasant		do	427
118	Thomas, Gabriel		Lake Wier	507
119	Thompson, Burrell	647	Millwood	427, 560
120	Tillis, Robert	547	No. 2	422
121	Turner, Robert		Millwood	471
122	Tyson, William	622	do	427, 437
123	Vancross, Neptune		do	461
124	Ward, Perry		do	472
125	c. Washington, Cuffy		No. 2	414
126	Washington, George	609	Flemington	486–487
127	Weathers, Sam	628	Millwood	427–456
128	Williams, George	626	do	
129	Williams, John		Cotton Plant	501
130	Williams, Solomon		do	436
131	Williams, Thomas	577	do	501
132	Williams, Wade	591	do	495
133	Williams, William	629	Millwood	494
134	Williard, Jack		Cotton Plant	494
135	Wilson, Ephriam	606	Flemington	444
136	Wilson, George		Millwood	427
137	Wright, Richard		do	445
138	Young, Ira	644	do	461

EXHIBIT A—Continued.

ORANGE COUNTY.

No.		Record.	Registration.	Remarks.
		Page		
1	Amos, George	749	.....	Registration sworn to.
2	Amos, Henry	754	.....	Do.
3	Berry, Joseph	752	.....	Do.
4	Bowen, Samuel	759	.....	Do.
5	Calvin, Isaac	763	1,041	Arrested at polls.
6	Cooper, Joseph	755	1,041	
7	English, Randall	763	.....	Registration sworn to.
8	Hartly, J. W	748	1,044	
9	Harper, Daniel	751	.....	Registration sworn to.
10	Hill, Nelson	760	.....	Do.
11	Humphreys, Wyatt	753	1,044	
12	Johnson, George W	750	.....	Registration sworn to.
13	Jones, William	757	1,044	
14	Madison, James	756	1,046	
15	McFadden, Prince	753	.....	Registration sworn to.
16	McKnight, Solomon	750	.....	Do.
17	McKinney, Alexander	764	.....	Do.
18	Owens, Samuel	754	.....	Do,
19	Reeves, Thomas	763	1,047	
20	Reynolds, W. E	759	.....	Registration sworn to.
21	Robertson, Wm. W	763	1,047	
22	Robinson, Marshall	758	.....	Registration sworn to.
23	Robinson, Riley	754–760	.....	Do.
24	Sherman, Allen	757	1,048	
25	Single, Charles	758	1,049	
26	Shodrick, Adam	756	.....	Registration sworn to.
27	Smith, Reuben	763	1,048	
28	Stevenson, Isaac S	761	.....	Registration sworn to.
29	Tillman, Austin	749	1,049	
30	Walker, Dick	751	.....	Registration sworn to.
31	Williams, George	752–753	1,050	

PUTMAN COUNTY.

1	Calvin, R. W	825–826	.....	Registration sworn to.
2	Jefferson, John	830	.....	Do.

VOLUSIA COUNTY.

1	Hunter, William	835	.....	Registration sworn to.
2	Johnson, Alfred	835	.....	Do.
3	Roe, Alfred	833	.....	Do.
4	Telfair, Mack	834	.....	Do.
5	Wellsburg, George	833	.....	Do.

COLUMBIA COUNTY.

1	Brown, James	846	.....	Registration sworn to.
2	Daniels, Frank	846	.....	Do.
3	Johnson, Israel	845	.....	Do.
4	Weston, Richard	843	.....	Do.

SAINT JOHN'S COUNTY.

1	Fowler, Charles	850	.....	Registration sworn to.
2	Heifer, William	850	.....	Do.

NASSAU COUNTY.

1	Thompson, William	810, 811	.....	Registration sworn to. *Vide* affidavit, ballot atached. Record, page 812.

EXHIBIT A—Continued.

ALACHUA COUNTY.

No.		Record.	Registration.	Remarks.
	Parker's Store Poll.	*Page.*		
1	Colbert, Samuel	347		Registration sworn to.
2	McGinnis, Tony	370		Do.
3	Mulberry, Joseph	364		Do.
4	Roberts, David	367		Do.
5	Wright, Richard	346		Registration sworn to, 355.
	Archer Poll.			
6	Berrahan, Nero	314		Registration sworn to.
7	Doby, Richard	316		Do.
8	Jones, Ed	317		Do.
9	Payton, Israel	316		Do.
10	Taylor, Peter	315		Do.
	Waldo Poll.			
11	Name not given			Vote cast on ballot. Finley's name erased, and Bisbee's name written. Rejected by officers. (Record, page 292, 292.
	HAMILTON COUNTY.			
1 2	Names not given			Two legal votes cast not counted. (See Record, page 840.)

List of 83 electors whose votes were tendered and not received at Live Oak poll. (*Record*, 794.

(Copy of registration book, record, page 789.)

SUWANEE COUNTY.

No.	Names.		No. on registration book.	Remarks.
1	Archibol, Henry	Reg.	29	
2	Austin, Jerry	"	28	
3	Brown, Milton	"	37	
4	Bryant, Amos	"	40	
5	Burk, Andrew	"	41	
6	Camel, Jarvis	"	127	
7	Carlisle, Charles	"	106	
8	Carruthers, Elijah	"	112	See name, record, 772.
9	Carruthers, James	"	128	See record, page 794.
10	Coleman, Henry	"	110	
11	Comer, Anderson	"	108	See record, page 786.
12	Coney, Noah	"	130	
13	Covington, J. T	"	117	
14	Bright, Daniel	"	151	See record, page 781.
15	Davis, Jasper	"	157	
16	Davis, Jesse	"	158	See record, page 785.
17	Davis, Thomas	"		Swears to registration, 774.
18	Devine, Jacob	"	156	
19	Emmons, Alonzo	"	164	See record, page 786.
20	Evans, William	"	163	
21	Farnell, Henry	"	189	
22	Fields, Lewis	"	184	
23	Fields, John	"	194	
24	Fields, Philip	"	166	
25	Fields, Thomas	"	187	
26	Figgs, Benjamin	"	165	
27	Frazer, Lee	"	193	
28	Goodman, Nat	"	196	
29	Griffin, Solomon	"	205	
30	Grimes, Adam	"	293	See name, record, page 768
31	Grimes, Thomas	"	198	See record, page 776.
32	Henderson, Lewis	"	233	
33	Herring, Horace	"	240	See record, page 781.
34	Holmes, John	"	235	
35	Holmes, Phillip	"	243	See record, page 794.

SUWANEE COUNTY—Continued.

No.	Names.		No. on registration book.	Remarks.
36	Homer, Henry	"	234	See record, page 781.
37	Hooker, Warren	"	248	
38	Jackson, Benjamin	"	280	
39	Jackson, Peter	"	269	
40	Johnson, M. J	"	285	
41	Johnson, Robert	"	272	
42	Jones, Andrew	"	281	
43	Jones, E. J	"	283	See record, page 794.
44	King, Vernal	"	288	
45	Lambert, Jackson	"	299	
46	Lee, Dempsey	"	297	
47	Lewis, Moses	"	290	
48	McClellen, Edward	"	328	See record, page 775.
49	McGee, Henry	"	334	
50	McLeilly, Peter			Swears to registration, 777.
51	Marshall, George	"	326	See record, page 785.
52	Mattair, Harry			Swears to registration, 785
53	Mitchell, John	"	323	
54	Mitchell, Tony	"	303	See record, page 782.
55	Molton, Edward	"	344	
56	Moore, James	"	324	See record, page 773.
57	Morgon, Solomon	"	341	
58	Mosley, Bryant	"	305	See record, page 768.
59	Moton, Carter	"	325	See record, page 783.
60	Murphy, Henry	"	345	
61	O'Neal, John	"	365	
62	Owens, Tony	"	377	
63	Patterson, Alexander	"	375	
64	Phillip. Richard	"	369	
65	Reddick, Charles	"	378	
66	Roundtree, Alex	"	385	
67	Sands, Hays	"	428	
68	Smith, Henry	"	425	
69	Stephen, Chester	"	421	
70	Stewart, William	"	447	See record, page 783.
71	Stickney, Moses	"	443	
72	Stofford. Adam	"	419	
73	Swaim, Primus	"	431	See record, page 777.
74	Taylor, Shode	"	503	See record, page 781.
75	Washington, George	"	541	
76	White, James	"	542	
77	Wiggins, Lewis	"	558	
78	Wilson, Ned	"	558	
79	Wilson, Thomas	"	566	
80	Williams, Cainer	"	545	
81	Williams, Lewis	"	551	
82	Williams, Samuel	"	559	
83	Williams, Thomas	"	565	See record, page 781.

EXHIBIT B.

List of alien-born persons who voted for contestee without exhibiting naturalization papers, or declaration of intention to become citizens.

		Record page.	Remarks.
	ALACHUA COUNTY.		
	Molly, J. W	292, 293	Challenged.
	DUVAL COUNTY.		
2	Dolan, D. A	1213	
3	Dzialynski, M. A	1214	
4	Fallen, Patrick	1211	
5	Hildebrandt, J	1212	
6	Finnen, Richard	1213	
7	Jacobs, Lionel	1212	
8	McCallum, J. D	1212	
9	McMurray. John	1214	
10	McQuaid, Patrick	1213	
11	Meyerson, M	1211	
12	Muller, Gustave	1215	
13	Tischler, Phillip	1211	
14	Thompson, J. B	1210	
15	Witschen, J. D	1214	

EXHIBIT B—Continued.

		Record page.	Remarks.
	MARION COUNTY.		
16	Cordero, John	409	
17	Hattig, Josh	421, 535	Challenged.
18	Hetherington, George	423	
19	Jones, Wm. E	410	
20	Johnson, N. J	509, 511	
21	Madden, Patrick	429, 479	Challenged.
22	Myerson, Albert	409	Do.
23	Schmerin, I	501	Challenged.
24	Shaffer, Charles	408	Do.
25	Stewart, James	483, 486, 487	
26	Ward, Timothy	424	
	NASSAU COUNTY.		
27	Elluman, John A	801	
28	Fitzgerald, Robert	799	
29	Fitzpatrick, Thomas	801	
30	Gage, Henry	805	
31	Glaibee, Albert	803	
32	Leigour, Joseph	806	
33	Lohman, A. W	807	
34	Lohman, J. F	804	
35	Hobin, Henry	799	
36	Henderson, R. W	805	
37	Huot, C. H	806	
38	King, H. W	802	
39	Klutz, Julius	802	
40	McWalters, James	801	
41	Mode, Joseph	799	
41½	Mooney, I. H	807	
42	Nickola, G	799	
43	Paton, M. J	805	
44	Peterson, Henry	804	
45	Rutishauser, J. C	802	
46	Schnitger, William	803	
47	Steele, Arthur	803	
48	Stork, Gustav	803	
49	Seydel, A	806	
	PUTNAM COUNTY.		
50	Gresham, John	827–831	
51	Ivers, Jno. M	818	
52	Ivers, William	820	
53	Lelienthal, B. L	819	
54	Mann, A. W	821	
55	Meyers, J. M	819	
56	Miller, George	823	
57	Peterman, H	822	
58	Peterman, Peter	821	
59	Richmond, L	820	
60	Salowski, J. H	819	
61	Shalley, Thomas	822	
	SAINT JOHN'S COUNTY.		
62	Alexander, Thomas	853	
63	Britt, John	853	All numbered from 62 to 73, but 3, were challenged.
64	Cloberay, David	853	
65	Doyle, Jerry	853	
66	Fitzpatrick, Andrew	853	Testimony of D. M. Sappy, Record 853.
67	Kelly, Andrew	853	
68	McMahon, John	853	
69	Merchant, August	853	
70	Monegeon, Louis E	849	
71	McNierny, John	853	
72	Starnowski, J. H	853	
73	Storon, Herman	853	

EXHIBIT C.

Miscellaneous illegal votes cast for contestee.

ALACHUA COUNTY.

	Page of record.
1. G. T. Thigpen, non-resident	290–292
2. S. P. Phillips, non-resident	291
3. C. E. Whiting, non-resident	291, 292

MARION COUNTY.

1. Reuben Storke, convict	513–666
2. G. W. Pendervis, convict	509–571
3. R. V. Pendervis, convict	509–571
4. John Geiger, convict	489
5. Luther Geiger, convict	489
6. Samuel Geiger, convict	489
7. R. T. Meany, non-resident	411
8. Allen Thompson, non-resident	478, 479

PUTNAM.

1. Frederick Morvick, unregistered	827, 828

HAMILTON COUNTY.

1. James Kite, non-resident	838, 839
2. Chester A. Register, non-resident	839
3. Condasy Oxendine, non-resident	840

COLUMBIA COUNTY.

1. Perry Keene, minor	845
2. John Harvey, non-resident	847, 848

SAINT JOHN'S COUNTY.

1. James M. Owens, non-resident	850, 851
2. T. W. Murdock, non-resident	850, 851
3. Daniel Bootright, non-resident	851
4. H. L. Ballard	851

DUVAL COUNTY.

1. Frank Wright, voted twice	1217

BISBEE *vs.* FINLEY.

Summary of results on case made by contestant, as claimed.

	Votes.
1. Votes tendered and rejected, which should be counted for contestant, Exhibit A	268
2. Illegal votes cast for Finley by aliens without exhibiting their naturalization papers, Exhibit B	74
3. Illegal votes cast for Finley by persons disqualified on various grounds, Exhibit C	22

ALACHUA COUNTY.

4. *Arredonda poll.*—Reject this poll and count for Bisbee 191 votes, proven in excess of returned vote	191
And deduct Finley's vote 172 (not having proven any vote for himself, none can be counted)	172

	Votes.
5. *Newnansville poll.*—Reject this poll and count for Bisbee 18 votes, proven in excess of returned vote	18
And deduct Finley's returned vote 146 (not having proven any votes for himself, none can be counted)	146
6. *Parker's Store poll.*—Reject this poll and count for Bisbee 28 votes, proven in excess of returned vote	28
And deduct Finley's returned vote 155 (not having proven any vote for himself, none can be counted)	155
7. *Madison County.*—Correct frauds by adding to Bisbee's majority in the county	371
Total of above corrections	1,445
Deduct Finley's apparent majority	1,003
Bisbee's majority	442
For sake of argument, concede to Finley difference (255) between total returned vote at the two polls of Newnanville and Parker's Store, and the number proven for Bisbee, which is all that he possibly could have proven, had he tried to prove his vote, and add to Finley's votes	255
Leaves Bisbee a majority of	187
True majority brought forward	(442)

OTHER QUESTIONS.

8. *Brevard County.*—Set aside election and deduct Finley's majority, 148	148
9. *Hamilton County.*—Poll No. 3. Set aside election and deduct Finley's majority	68
10. *Orange County.*—Fort Christmas poll. Return unsigned by officers; reject and deduct Finley's majority	27
11. *Nassau County.*—Odums Branch poll. Reject returns and deduct Finley's majority	30
12. *Bradford County.*—Correct results by deducting, *pro rata*, 76 votes unregistered at polls Nos. 2, 3, 5, and 7, by which Finley loses 70 votes and Bisbee 5 (excluding fractions), reducing Finley's majority	65
13. *Marion County.*—Reject return Moss Bluff poll, and deduct Finley's majority	59
Upon whole case Bisbee's majority is	839

BISBEE vs. FINLEY.

APRIL 21, 1882.—Ordered to be printed.

Mr. BELTZHOOVER, from the Committee on Elections, submitted the following as the

VIEWS OF THE MINORITY:

We respectfully submit the following statement of the conclusions at which we have arrived, and the reasons therefor, in the contested-election case of Bisbee *vs.* Finley.

This contest comes from the second Congressional district of the State of Florida, which is composed of seventeen counties. The election was held on November 2, 1880, and the official returns filed in the office of the secretary of state show that Mr. Finley received 13,105 votes, and Mr. Bisbee received 11,953 (see record, 1056). The official majority received by Mr. Finley was therefore 1,152. On January 15, 1881, Mr. Bisbee served a notice on Mr. Finley, contesting his election and attacking the polls in all the counties of the district but one (Clay). On February 3, 1881, Mr. Finley served his answer on Mr. Bisbee, replying to and denying fully all his alleged grounds of contest (see record, 1-18). On the issues raised by the notice and answer, over 1,200 pages of testimony were taken.

For convenience, and the ready and intelligent application of the law to this case as presented by the record, it is deemed necessary to state the principles involved in its determination.

The constitutional and statutory provisions relating to suffrage may be divided into two classes: first, mandatory, which define the right of suffrage, and, secondly, directory, which direct the manner of its exercise. The former relate to the *substance* of the right; the latter to the *mode* of its exercise. The former confer the right—the latter are as so many safeguards to conserve it. The right is *derived* from the former and its exercise regulated by the latter. The former determine the *primal* and ultimate authority in the government—the latter serve as means to invoke and give force to it. The means being subordinate to the end, it follows that directory provisions, whether Constitutional or statutory, must be liberally construed, and so applied as to give legitimate force and efficacy to the *will* of the sovereign power in the State. A different rule would subordinate the substance to the shadow, and would in the end substitute technical quibbles for the ballots of the qualified electors. The primal inquiry is, Whom did the qualified electors *choose* as *evidenced* by their ballots cast or offered but refused? The ascertainment of the will of the qualified electors is the end of directory statutes; and this attained, "the reason ceasing the law also ceases."

The House is the exclusive judge of the qualifications, elections, and returns of its own members. In the exercise of this prerogative it is not bound by the technical rules of judicial procedure, nor even by its own precedents. These may be persuasive, and in so far as they embody the *wisdom* of experience, enlighten the mind, and contribute to right conclusions. In the exercise of this attribute of sovereignty the House is charged in the ultimate with the maintenance of the right paramount and preservative of all other rights—the elective franchise. Therefore the House is absolutely untrammeled, and answerable only to the sovereignty where this power emanates. The electors can and should accept no apology for any evasion or abuse; every case should be decided upon its own merits, and the electors should accept no other conclusion than the *vindication in fact* of the right of representation. Technical quibbles should never be permitted to defeat honest ballots, for the plain reason that so long as the people have the power, and do actually choose the law-makers, they have it in their power to eliminate or amend whatever works injury to their rights or prosperity. And whatever affects seriously that right touches the vitals of the republic. We cannot, therefore, be too cautious or circumspect in deciding a contest involving a seat in this House. And if we are wise and patriotic, we *will* be aided by rules whose soundness has been attested by experience.

The returned member, by the familiar rule, "Officers are presumed to have done their duty," is supposed to have been duly elected. This presumption should be maintained unless repelled by conclusive evidence. If a return, local or general, be attacked for fraud or illegality, the testimony of officers holding the election is of great weight—because of opportunities to know, and the motive of duty to observe all things relating to the election in their charge; and such is the weight of their evidence that it cannot be overthrown by circumstantial evidence unless so strong as to admit of no reasonable hypothesis compatible with the truthfulness and integrity of the officers.

The first point made by the contestant in his brief is, "that the county canvassing board of Madison County arbitrarily rejected the returns from two election districts, from which 325 votes were returned for contestee and 474 for contestant," thereby giving contestant 149 majority. The contestee replies that there is no specification of this claim by the contestant in his notice of contest, nor anywhere else. That not only was there no notice of this claim, but no testimony was taken on the subject to support it. On the contrary, the contestant's notice of contest stated that he would ask to have all the returns from Madison County "rejected as illegal and fraudulent."

This is what contestant says in his notice as to Madison County:

MADISON COUNTY.

In this county the gross fraud was committed by your political friends of stuffing the ballot-boxes with ballots containing your name for Representative to Congress, and drawing out from such boxes ballots containing my name for Representative to Congress, at each of the two polls in the town of Madison, and at each of the several polls in the said county known as Cherry Lake, Hamburg, Greenville, and the two polls at Mosely Hall, and at each of the other polls in said county, whereby I was cheated and swindled out of five hundred or more votes. I shall ask that the returns from each of said polls be rejected as evidence of the true vote cast, and that the votes actually cast for me be counted as cast. I shall ask that the county canvass be rejected as illegal and fraudulent.

This certainly was no notice to contestee that contestant proposed to do the very opposite of his notice, and ask to count instead of reject.

It was reasonable for the contestee to suppose that contestant, in claiming that the whole county should be rejected, would be content to pass over the two precincts that were already rejected. The contestant himself attacked these two precincts in his notice of contest. They were rejected by the county canvassing board upon what, in the absence of all proof, must surely be presumed to have been legal ground, and no testimony was taken to show that they were improperly rejected or should be counted. It is a strange position for contestant to take at the conclusion of the contest, to ask that returns that were rejected in the official canvass, returns that he himself asked to have rejected in his notice of contest, and that no evidence is adduced to show were not rejected properly, should now be counted. This claim is so uncertain and dubious that in no part of the whole case, from the beginning to the end of the contest, were the two precincts named, and not until contestant filed his reply to contestee's brief, after the argument was over and the case submitted, did he disclose the names of these two precincts. We can entertain no doubt that this claim of the contestant should be disallowed.

We next come to the first county attacked by contestant.

ALACHUA COUNTY.

In this county three polls are assailed by contestant, to wit, Arredonda, Newnansville, and Parker's Store. (Rec., p. 3.) The following is the reference to this county by contestant in his notice:

> That at the Newnansville poll, and the Arredonda poll, and Parker's Store poll, in Alachua County, the gross fraud was perpetrated by your political friends of stuffing the ballot-boxes with ballots containing your name, and ballots containing my name for Representative to Congress were taken out of the boxes, so that the total vote cast for me was not returned; and I shall ask that the returns from these three polls be excluded as evidence of the vote cast, and that the total vote cast for me be counted as cast at these polls.

Arredonda poll.

The contestant asks that the return from this poll be rejected, and that no votes shall be counted for either candidate, except such as each has proven by evidence other than the return.

The grounds upon which contestant asks to have this return set aside and disregarded, and the vote proven by *aliunde* testimony, are as follows:

1. That the ballot-box was purposely concealed from the public view by a passage-way erected to the polls.
2. That the vacancy in the election board, occasioned by the absence of the Republican inspector, was illegally filled.
3. That a Republican watcher was not allowed in the voting-room.
4. That the officers of election used whisky and that Virgil George, the Republican inspector, was drunk.
5. That the ballot-box was thrown under the table, or so handled in the poll-room as to indicate fraud.
6. That the ballot-box after the election was in the custody of the inspector who had the key.
7. That the election board, in violation of the law, adjourned and went to supper before counting the vote.

This is a full and fair statement of the grounds alleged, and from which it is claimed such fraud and irregularity are to be inferred as to

discredit the returns and reject the poll. In support of these allegations the contestant called five witnesses, viz: J. T. Walls, a colored man, who was a candidate for State senate; Jack Trapp, a colored man, who was a United States deputy marshal, and a brother of the candidate for the legislature; Edward Sammons, who was United States supervisor; Charles Dubose, president of the Republican club, and Ransom Baskins, who was the Republican tally clerk.

Against these charges of fraud the contestee called W. T. Rice, a merchant, railroad agent, and postmaster of Arredonda; J. R. Flewellen, a Democratic inspector; Samuel D. Reed, a Democratic inspector; Virgil George, a colored man, and the Republican inspector; Samuel C. Tucker, the clerk of the election; Amos George, a colored voter; W. R. Mills, a country merchant, and Julius A. Carlisle, the clerk of the circuit court. We have, therefore, five witnesses on the one side to show the fraud, and eight on the other side to disprove it. We will take the points up in their order, and give the language of the witnesses in support of and against each.

1. Was the ballot-box purposely concealed from public view by a passage-way to the polls?

For the contestant:

J. T. Walls swears:

What I mean by keeping order is that Mr. Cisero Nichols, deputy sheriff, at or about the opening of the polls, there being such a cluster of people, made a passage-way to the polls about sixteen feet long out of boards, and wide enough for two persons to stand side by side, and there was a place for them to pass out at the window-end after voting.

Ransom Baskins swears:

Q. Can you describe the interior of the room where the voting occurred and the canvass took place?—A. There were two rooms connecting with the polling-room. Between the store and the polling-room there was a passage-way which was open. When they came back from supper they did not bring the box to canvass the votes into the same room where the voting had taken place, but they took it into another room under the same roof. [Witness here draws a diagram of the building in which the voting takes place, which is introduced and filed in evidence, and marked Exhibit R.]

For the contestee:

W. F. Rice swears:

Q. Do you know, or did you hear any complaints of the election being so conducted at that poll so that the qualified voters who were present did not have the opportunity to vote?—A. I heard no complaint of that kind.

J. R. Flewellen swears:

Q. State whether or not the said election at Arredonda was so conducted that all the qualified voters present were allowed to vote without interference or hinderance. A. It was.

S. D. Reed swears:

Q. What disposition was made of the ballot-box?—A. It was in the custody of the inspectors, and in full view of the voters.

Q. Can you state whether or not the ballot-box was kept in the presence of the inspectors, and not concealed from the public, the whole time from the opening of the polls until the closing of the canvass?—A. The ballot-box was at all times, from the opening of the polls until the closing of the count, in the presence of both the political parties, and two or more of the inspectors, and not concealed from the public view.

In addition to this testimony all the witnesses swear that the election was fairly conducted and peaceable. We do not think therefore, that, on the evidence, this allegation of fraudulent concealment of the ballot-box is sustained.

2. Was the vacancy in the election board illegally filled?

The testimony on this point is as follows:

For contestant:

J. T. Walls swears:

Q. Were all the inspectors there when the polls opened; if any were absent, state whom, and if you know the cause of his absence, please state?—A. They were not; Ephraim George was appointed by the county commissioners; was absent. He was, as I understand, out of the county for about a year, and had not returned up to the time of opening the polls. I understood that the sheriff had a warrant for him for forging a note.

Q. State, if you can, how the vacancy caused by his non-appearance was filled.—A. By the inspectors.

Q. Can you state whether or not the majority of the electors present at the polls when George was appointed an inspector by the other inspectors were in favor of said George to act as such, or did they express themselves as dissatisfied, and want to have the privilege of electing an inspector themselves to fill the vacancy?—A. I heard some of them express themselves as objecting to the manner in which George was made an inspector, but no objection to George, claiming that they had the right to elect an inspector.

Q. Was Virgil George, the inspector who you mention in your direct testimony, a Republican or a Democrat, and was he a white man or a colored man?—A. He is a Republican in politics and a colored man.

For contestee:

Mr. J. R. Flewellen swears:

Q. How came Virgil George to be chosen as inspector, and how came he to act as such?—A. The name of Virgil George was sent to the clerk, as we understood, and by mistake the clerk entered the name of Ephram George. The said Ephram George had not been for some years a resident of this county.

Q. Was Virgil George present on the grounds at the opening of the polls on election day?—A. He was.

Q. State whether or not the said Virgil George was regarded, generally, both by the Democratic and Republican voters present, as well as by the inspectors, as the person intended to be the Republican inspector at the polls on that day?—A. He was; he was considered by everybody as the man appointed to be inspector at said poll.

Q. Was any opportunity offered by the inspectors present to choose an inspector in his place, if he had not been so regarded?—A. There was.

Q. Did they avail themselves of this opportunity, or did they decline to do so?—A. They said nothing about it.

Q. Was there any objection interposed to his acting as inspector?—A. None that I heard of.

Q. Were any Republican representatives or officials admitted into the polling-place at said election in Arredonda during the election and canvass of the vote on that day?—A. There was.

Q. Was there or not any distinction made by the inspectors in that respect between Democrats and Republicans?—A. There was none.

Q. Who first asked Virgil George to act as inspector of said election?—A. I don't know. It was generally conceded by whites and blacks of both parties that he was the inspector. Virgil told me so; also of the mistake in print, and asked me what to do about it. I told him if any objection was made I would have an election at the polls for an inspector; there being none, he acted as one.

Q. Did you or Mr. Reid, or either of you, give any formal notice that there was a vacancy among the inspectors which the voters present were entitled to fill then and there by election?—A. Immediately before going into the room to be sworn in, the question was asked by several colored men in the crowd who were the managers or inspectors. I told them that myself and L. D. Reid were the Democrats, and Virgil George was intended for the Republican; that he was the only man who can read and write, and I supposed that he would act, as they had none other that could do it in that party here. I told him to go in, and if there was any objection made we would have an election.

Q. Did you make any further notice after you were sworn in, you or Mr. Reid?—A. We did not.

Q. About how many voters were present at the polls at the time you opened them?—A. I don't suppose there were five absent of all the voters who voted that day.

Virgil George swears:

Q. Were you at Arredonda at said election?—A. I was.

Q. Did you or not act in any official capacity at that election, and, if so, what?—A. I did act as inspector, was elected inspector that morning.

Q. Why was it that you acted as such inspector?—A. I understood that the clerk had made a mistake when Ephram George, my son, was appointed inspector, as he had been absent from the county for two years previous to the election, and that I was the party intended to be appointed.

Q. Are you and were you, at the time of said election, a Republican or Democrat?—A. I am a Republican, and was at the time of said election.

Q. Were you drunk or sober on that day?—A. I was sober.

Q. Was there not any objection made by any of the voters present to your acting as inspector?—A. None that I know of.

Q. Did you or not, while you were acting as inspector, feel anxious for the success of the Republican party, and did you not consider it to be your duty to watch and protect the interest of that party at said election?—A. Yes, sir; I did.

Q. Were you so watchful of that interest?—A. I was.

Q. Can you state whether or not said election was a peaceful and fair election, or otherwise?—A. It was a peaceful, fair, and square election, as far as I could see.

Sam D. Reed swears:

Q. State whether or not it was understood that Virgil George was intended to one of the inspectors at the election at Arredonda precinct? -A. It was. It was by mistake that the county commissioners appointed Ephram instead of Virgil George, as the said Ephram George was not at the time a citizen of this county.

Q. State whether or not said election at Arredonda was so conducted that all the legal voters present had an opportunity to vote, whether they were Republican or Democrat.—A. So far as I know every one had an opportunity to vote as he pleased.

Q. You state on your direct examination that Virgil George was intended as inspector for Ephram George. Now, state if that was the intention of the county commissioners. How do you know it to be so?—A. My impression is derived from the fact that Virgil stated it, and it was the general impression throughout the county.

This testimony very clearly shows that there was no fraudulent purpose in the appointment of Virgil George as the Republican inspector at this poll, instead of his son Ephraim, who seems to have been named by the commissioners by mistake. Indeed it is hard to see why the contestant should complain of having an honest man of mature years, and to whom Mr. Walls says there was no objection, instead of a young man who was a criminal and fugitive from justice. The appointment was not strictly or technically correct, but it was honestly made and no harm resulted.

3. Was a Republican watcher refused admission to the voting room? The testimony on this point is as follows:

For contestant:

J. T. Walls swears:

Q. Can you state, of your own knowledge, whether or not a representative to act in behalf of the Republican party inside of the polling-place was nominated and preferred by the Republicans present at the polls, was made and appointed? And if there was such representative nominated and appointed, state, if you can, his name, and whether or not he acted, or was allowed to act, in such representative capacity inside of said polling-place?—A. I can. There was one nominated and preferred; myself, J. T. Walls, was the person. I did not act—I was not allowed to act—inside of the polling-place. I was refused admission into the room or polling-place by the clerk, Samuel C. Tucker, and the inspectors, J. R. Flewellyn and Samuel D. Reid.

Q. State the objection they made to your admission inside.—A. Mr. Flewellyn's objection was that I was an interested party, being a candidate for the senate.

Jack Trapp swears:

Q. Were you there when a Republican representative was chosen to act inside of the polls? If so, state his name, and whether or not he was admitted, and tell all you know about it.—A. I was there when there was one chosen; his name was J. T. Walls; he was not allowed inside of the polling-place. The inspectors refused admission. The inspectors who refused him were Flewellyn and Reid, because he was an interested party.

Edward Sammons swears:

Q. Were you a Republican and a supervisor at Arredonda at the last election?—A. I was.

Q. What did you regard to be your duty as such supervisor?—A. It was to look out for all frauds that might happen against the Republican party that day.

Q. Was that all the duty that you thought devolved upon you as such supervisor?—A. I had it in my mind that it was my duty to see that each party was dealt fairly and squarely by, and if there was any frauds made I was to make a report to the chief supervisor of the State.

Q. Did you or not make such report; and, if so, to whom did you make such report as such chief supervisor?—A. I brought Mr. Hughes a blank report; I furnished all the facts, and got him to fill it out for me.

Q. Have you a copy of that report?—A. No, I have not got it now; it was burned up in my house.

Q. What time was this report made after the election?—A. The second day after the election.

Q. Who was Mr. Baskin, whom you say was called on by the inspectors to tally the votes; was he a Republican or Democrat?—A. He has been a Republican, but I cannot say what he was then.

For contestee:

J. R. Flewellyn swears:

Q. Was or not J. T. Walls an applicant to be admitted into the polling-place as a Republican?—A. He was not until dark; then he made direct application to me, through Mr. Reid, one of the inspectors. I refused on the grounds that he had a representative, and that he was a party at interest, being a candidate for the State senate. His representatives were Edward Sammons, and another whose name I do not now remember; those parties were admitted to the polling-place.

Virgil George swears:

Q. Were there or not any Republican representatives interested in the success of the Republican party, admitted into the polling room during said election and during the canvass of the vote?—A. Yes, sir; Edward Sammons, acting as supervisor, and Ransom Baskins were admitted.

Q. Were they present during the voting and canvassing of the vote?—A. Ed. Sammons was present all the time, and Ransom Baskins spent most of his time outside while the voting was going on, but was present after the polls were closed.

This testimony discloses that the contestant was fairly represented by zealous friends during the day of the election at the polls and at the count of the votes. Mr. Sammons swears that as United States supervisor he regarded it as his special duty to watch the interests of the Republican party, and did so. It is also shown that while Mr. Walls may have been legally qualified to act as a watcher inside of the polls, it was highly indelicate and improper that he should have insisted on acting in any capacity in the conduct of the election at which he was a candidate for a high office. It was a technical violation of the law to refuse him permission to act, but there is no evidence whatever that he suffered any harm by being refused; but on the contrary the evidence shows that he himself did not claim that there was any fraud committed by reason of his exclusion. It is also shown that he did not make application until evening.

4. Were the officers of the election disqualified by using whisky, and was Virgil George, the Republican inspector, drunk?

The testimony on this point is as follows:

For contestant:

Ransom Baskins swears:

Q. Was there any liquor in the room while the canvass of the vote was going on; and, if so, how much did you see, and who had it; and was it or not all drank before the votes were canvassed?—A. Yes; there was liquor; I saw one bottle and a flask. Everybody who had anything to do with counting the votes was drinking that whisky or liquor. I think that it was all drank.

J. T. Walls swears:

Q. Can you state, to the best of your knowledge and belief, that Virgil George, the party who acted as inspector, and who you say was appointed by the other inspectors to fill the vacancy, was in a fit condition to perform his duties, or, if he was, was he

competent to?—A. When he was taken to their assistance by them I thought that he was drinking some; my opinion is that in a sober condition he would be fully competent.

Ransom Baskins swears:

Q. Was not Virgil George, one of the inspectors, pretty well filled up with whisky or some other intoxicating liquor?—A. I saw him drinking, and at times saw him with his eyes shut and his head nodding.

For contestee:

Samuel D. Reid swears:

Q. Do you know the inspector, Virgil George? And if so, state whether or not he is, and was at the time of said election, a Democrat or a Republican?—A. I am acquainted with Virgil George. I have every reason to believe that he is, and was at the time of the election, a strong Republican.

Q. Was he drunk or sober on election day?—A. He was sober.

Q. Does not Virgil George bear the reputation of being a dissipated man, and have you seen him frequently intoxicated?—A. I don't think he bears that reputation. I think I have seen him intoxicated about twice in three years.

Virgil George swears:

Q. Were you drunk or sober on that day?—A. I was sober.

Samuel C. Tucker swears:

Q. Please state whether or not Virgil George on the day of said election drank anything intoxicating?—A. I don't know, because I did not see him do it.

The testimony further shows that the officers of the election were men of high character for integrity and honor, and had no interest in the result. It is respectfully submitted that there is nothing to maintain this point.

5. Was the ballot-box thrown under the table, or so manipulated and used in the poll room as to prove that a fraud was committed?

The evidence on this point is as follows:

For contestant:

J. T. Walls swears:

Q. Was the ballot-box concealed at any time before said adjournment from the public view; if so, where was it?—A. It was. When the polls was announced to be closed, the clerk of the election, Mr. Tucker, reminded the inspectors to be careful with the ballot-box, and Mr. Flewellyn, one of the inspectors, took the ballot-box off of the table where it was sitting near the window, and threw it under the table towards the entrance from the bar. I did not see anything more of the ballot-box until Mr. Flewellyn, one of the inspectors, picked it up as they adjourned for supper.

Q. At the time you state he threw the box under the table, was there any confusion or excitement going on; if so, what was it?—A. I did not notice any.

Q. At the time the ballot-box was thrown under the table, was there any debate going on relative to an adjournment for supper?—A. There was none at that time. After the talley sheet was prepared there was some discussion as to whether they would proceed to count or go to supper, and they adjourned for supper.

Q. Who took part in the discussion as near as you can recollect?—A. Nobody to my recollection but the inspectors. We did not see the ballot-box. Some of them said they were hungry, and would not get home before midnight, and so they adjourned.

Q. You state that shortly after the polls closed the ballot-box was thrown under the table. Was that before or after they proceeded to make the tally-sheet, and how long before they adjourned for supper?—A. It was thrown under the table about the time they commenced to make the tally-sheet, and I did not see it again for about half an hour, when they adjourned for supper.

Q. Please state who were in the room during the election.—A. I saw Mr. Flewellyn, S. D. Reid, Samuel Tucker, Virgil George, Edward Sammons, and John Bevill. There may have been others in the room. The time I noticed these particularly was when I was refused admission.

Q. What time of day did the polls close?—A. About sunset.

Q. Do you know how many were in the room when the polls closed, and who they were?—A. J. R. Flewellyn, S. D. Reid, S. C. Tucker, Virgil George, John Beville, and Edward Sammons.

Q. Who was Edward Sammons? Was he a Democrat or a Republican, a white man or a colored man?—A. He is a colored man. He acted as Republican United States supervisor, and is a Republican.

Jack Trapp swears:

Q. Were you there at the close of the polls?—A. I was.

Q. What was done? Did they proceed to canvass the votes at the close of the polls?—A. Yes. They pretended to proceed, but they did not. They said they were going to supper, but they did not go right away. Flewellyn, one of the inspectors, ordered the window to be pulled to. They staid there and talked about twenty-five minutes, and I pulled the window open again, and then Flewellyn took the box, saying he was afraid that some one would take the box and run off with it, and threw it under the table. I told him they were not apt to do it; and then they closed the window and went to supper. I went with the inspectors. They carried the box with them. I disremember which one had the box; and I did not see the box any more after they carried it in the house.

Q. In what capacity did you act on the day of election at Arredonda?—A. I was United States deputy marshal.

Q. By whom were you appointed?—A. The marshal of the United States court.

Q. What did you say was done with the ballot-box when the polls were closed?—A. They put it under the table. I was standing outside at the window.

Q. When did the polls close?—A. About sundown.

Q. Did you or not see any one tamper with the ballot-box in any way at any time?—A. No, sir; I did not.

Q. Are you a Republican or Democrat, and what was your politics at the time of the election?—A. I am a Republican, and was then.

Edward Sammons swears:

Q. What official capacity, if any, did you occupy at the election at Arredonda held on the 2d day of November last?—A. I was United States supervisor at that election.

Q. Were you present when the polls were opened?—A. I was.

Q. Were you present when the polls were closed?—A. I was.

Q. Where were you when the polls were closed?—A. Inside of the polling room.

Q. Did the inspectors immediately proceed to count the votes when they announced the polls closed?—A. They did not.

Q. Tell what was done and what took place at the close of the polls inside of the polling room.—A. Mr. Flewellen said, "We announce now that it is 6 o'clock and the polls are closed." After that there were no more votes taken, and we stopped some considerable time in the room. I do not know how long.

Q. Where was the box all this time after the polls were announced closed?—A. Mr. Flewellyn was standing with his hand on it.

Q. Was the box at any time removed from the public view while in the room?—A. It was.

Q. State when and how long.—A. During the time he had his hand on the box the question arose: He said, "Boys, it may take us all night to count these votes, and as I have supper prepared for six we had better get it." Then he said, "We need a tallyman; we had better fix that up before supper." Then arose an argument between him and me about it. And I asked him who would that be. He said that was left to me; that he was looking out for himself, and I must look out for myself. At that time Sam Reid touched me and I started out in the little anteroom, and I heard a rumbling behind me and I noticed back to see what it was, and it was the box falling under the table, and I stood in sight and talked to Mr. Reid perhaps about a quarter of an hour before it was picked up from the floor and put on the table. At that time Mr. Reid and myself had decided to let Walls come in and keep tally. Flewellyn objected to it and picked up the box and walked out, and when he got outside of the door he gave it to Virgil George; and Virgil, and Flewellen, and Sam Reid, myself, Sam Tucker, John Bevill, and Dr. Carew, and Jack Trapp marched out for Mrs. Burk's boarding house. I went with them to within about fifty yards of her door; myself and Sam Reid stopped and we talked there perhaps ten minutes; the others went on with the box. After that myself and him went to the boarding-house. Jack Trapp was standing on the piazza outside of the door and Mr. Reid told him that he did not regard his badge; that he did not belong there and had better get away. I had an invitation in with them to supper, and as I passed in through the door to the supper-room, on the right of me as I passed in, I saw Virgil George sitting by the side of the door with the box in his lap, and the other inspectors were in there with him. I went on by the door about thirty feet further and on the left I went into a room, and had been there about ten minutes and Virgil George came to the room where I was and left the box behind him. In about ten or fifteen minutes afterwards Mr. Flewellyn came to the room where Virgil and I was and brought the box with him. He says, "Hurrah, boys, we must get back."

Q. You said in your direct examination that after the polls were closed the ballot-box was for a time concealed from the public view. Will you state when, how long, and how that was?—A. During the time what I called concealed it was from them outdoors but not from those in the house. It was about fifteen minutes, more or less. I had no watch.

For contestee:

J. R. Flewellen swears:

Q. What was done with the ballot-box when the polls were closed, and afterwards, until the votes were canvassed?—A. At sundown I closed the polls, after having given fifteen minutes beforehand. The ballot-box remained on a goods box, which served as a table, with the open side down, until dark; then I took it up in my arms, while we had two lighted candles in the room, and gave it to the Republican inspector, and closed the window of the room that we were then in, and the inspectors together went out of the door and went a distance of about a hundred yards to supper at a boarding-house; the said inspector retaining the ballot-box. While the Democratic inspectors were at supper, the Republican inspector was seated in the same room with the box. After the Democratic inspectors got through eating, I went with Republican inspector to another room, where his supper was served; then he gave me the ballot-box, and I held it immediately in his presence until he got through eating; then I gave the ballot-box back to him, and Mr. S. D. Reid, the other inspector, joined us, and we went back to the room where the election was held, and in the adjoining room with the door wide open, and four candles burning, I announced that we would then commence the canvassing of the votes, which we did.

Q. State whether or not the ballot-box, from the time the polls were closed up to the time the inspectors went to supper and carried it, was exposed to the public view.—A. It was.

Q. Were there others in the room during this time under the inspectors, and were any of them Republicans?—A. There were two supervisors, one a Republican, the other a Democrat, and the clerk in the room during the entire time.

Q. Was the ballot-box at any time, from the closing of the polls to the time it was taken by the Republican inspector, Virgil George, put or thrown under a table?—A. It was not; there was not a table in the room.

Q. Was there not a little table occupied by the clerk?—A. There was a small candle-stand; not much larger than the paper on which this testimony is written.

Q. Was there any attempt made by you, or any of the inspectors at any time, up to the closing of the canvass, and the ascertainment of the result of said election, to conceal or tamper with said ballot-box?—A. There was not.

Q. State whether or not, so far as you were concerned, and so far as your observation extended to the other officers of the election, there was an earnest and honest effort to comply with the election laws at said election at Arredonda.—A. We tried in every respect to go by the election laws. We had them with us, and complied with them as well as we knew how.

Sam. D. Reid swears:

Q. Were you present at the closing of the polls on the day of election at Arredonda?—A. I was.

Q. What disposition was made of the ballot-box?—A. It was in the custody of the inspectors, and in full view of the voters.

Q. What was the size of the room where the election was held?—A. I suppose it to be eight by ten, and maybe ten by twelve.

Q. State whether or not you saw the inspector, Flewellen, throw the ballot-box at any time under the table.—A. I did not. There was not a table large enough for the box to have gone under in the room. The only table in the room was a small toilet table, the construction of the legs of which was such as that a box could not have been put under it.

Q. State whether or not there was any distinction made in the admission of Democratic and Republican representatives inside the polling-place.—A. There was no distinction.

Q. State whether or not the election held at Arredonda as aforesaid was a fair and a peaceable one, or was it otherwise.—A. It was fair, impartial, and peaceable, and in conformity with the election laws.

Virgil George swears:

Q. Were you present when the polls were closed?—A. I was.

Q. Did you see any of the inspectors, at any time, put the ballot-box under a table or in any other concealed place?—A. No, I did not.

Q. Did you not see Inspector Flewellen put the ballot-box under a table?—A. No, sir. Upon my word and honor I did not.

Q. Was there any table in the polling-room?—A. There was a very small table in the room.

Q. What became of the ballot box after the polls were closed?—A. After the polls were closed, we consulted whether we would go to supper, and, after having concluded to go to supper, we then considered what we would do with the box. It was determined that we all would go together to the supper-house, about seventy-five yards off, and that one of the inspectors take the ballot-box, and another the key. They gave me the box, and Mr. Flewellen the key, and we all went together to supper.

Samuel C. Tucker swears:

Q. Were you present at the closing of the polls at Arredonda at the election held there on the 2d day of November last?—A. I was.

Q. Can you state whether or not the ballot-box was put under a table by any of the inspectors, or in any concealed place, by them or any one else?—A. It was not, that I saw. We had no table while there in the room when the ballots were received, except a little toilet table, on which I did my writing. The ballot-box was set on a large goods box.

Q. What disposition was made of the ballot-box after the polls were closed?—A. It remained on that box until just before we went to supper. Mr. Flewellen took the ballot-box from off this box, the wind blowing strongly at the time in the window where the box was sitting, and held it in front of the inspectors. This was done as a precautionary measure, for fear that the lights might be blown out by the wind and some one might snatch the ballot-box.

This testimony leaves it in very great doubt whether the ballot-box was on the floor at all. It clearly shows that it was not purposely thrown there. It still more clearly shows that it was at all times in the presence of friends of both parties. Flewellen, Reid, and Tucker, who were present in the room with the ballot-box, were Democrats; George, Beville, and Sammons were Republicans, and there is no scintilla of proof that there was any tampering with the box or any fraud committed.

Walls who was outside of the house and could not see what was going on in the room, says that—

Flewellen took the ballot-box from the table where it was sitting near the window and threw it under the table towards the entrance from the bar.

Sammons, on p. 194 of the Record, says:

At that time Sam Reid touched me, and I started out in the little ante-room, and I heard a rumbling behind me, and I noticed back to see what it was, and it was the box falling under the table, *and I stood in sight* and talked to Mr. Reid perhaps about a quarter of an hour before it was picked up from the floor and put on the table.

This witness Sammons testifies, on p. 195 of the Record, as follows:

Q. Were you a Republican and a supervisor at Arredonda at the last election?—A. I was.

Q. What did you regard to be your duty as such supervisor?—A. It was to look out for all frauds that might happen against the Republican party that day.

Regarding it to be his duty, as he swears, "to look out for all frauds that might happen against the Republican party," and standing *in sight* of the ballot-box from the time it is alleged to have been thrown under the table, watching it, as he evidently was, can any impartial mind, seeking after truth, come to a conclusion from this evidence that it was *possible* that this ballot-box could have been tampered with while it was under that table, if it was ever thrown under a table? It was *entirely impossible*, as is shown by the contestant's own testimony.

From the following testimony of the Republican supervisor, Sammons, it will be seen that the ballot-box was never concealed from those in the house. (See Rec., 195.)

Q. You said in your direct examination that after the polls were closed the ballot-box was for a time concealed from the public view. Will you state when, how long, and how that was?—A. During the time what I called concealed it was from them outdoors, but not from those in the house. It was about fifteen minutes, more or less. I had no watch.

Who were in the room from whom, Sammons says, the box was never concealed? Contestant's witness, Walls, on p. 189 of the Record, answers this question as follows:

Q. Please state who were in the room during the election.—A. I saw Mr. Flewellyn, S. D. Reid, Samuel Tucker, Virgil George, Edward Sammons, and John Bevill. There may have been others in the room. The time I noticed these particularly was when I was refused admission.

Q. What time of day did the polls close?—A. About sunset.

Q. Do you know how many were in the room when the polls closed, and who they were?—A. J. R. Flewellyn, S. D. Reid, S. C. Tucker, Virgil George, John Bevill, and Edward Sammons.

In this little room, of the dimensions of 10 by 12 feet, with all these persons in sight of the ballot-box, and when Sammons, Mr. Bisbee's *warm supporter*, was watching out for frauds against the Republican party, as he testifies, to conclude that the ballot-box was tampered with, or could be tampered with, cannot be done, we submit, with any regard for law or evidence.

6 and 7. Was the ballot-box in the possession of the same person who had the key during the adjournment, and was there any fraud or illegality committed during the adjournment?

The testimony on these points is as follows, viz:

For contestant:

J. T. Walls swears:

Q. You stated you were there all day. Were you there when the polls closed? If you were, state what took place, if anything.—A. I was there when the polls closed. They did not proceed to count the votes when they announced the polls closed. They were about one-half hour preparing a tally-sheet, after which they adjourned to supper. They were gone about three-quarters of an hour to a house kept as a boarding-house.

Edward Sammons swears:

Q. You say that Virgil George took the ballot-box at the door, and all the inspectors and yourself and the other supervisors and officers of the election went to Mrs. Burk's to get supper, do you?—A. Yes; and we all went to Mrs. Burk's to get our supper.

Q. How far is Mrs. Burk's from the polling-place?—A. I presume about three hundred yards.

Q. You said in your direct examination that when you came into the house you saw in a room on your right the inspector, Virgil George, sitting with the box in his lap and the other inspectors around him. Were there any other persons in the room besides the inspectors, and was the room lighted up or not?—A. There was other persons in the room, and it was lighted up.

Q. How long was it from the time you all left the polling-place to go to supper before you returned to the polling-place?—A. I had no watch. About a half or three-quarters of an hour, I think.

Q. Were you inside of the polling-place all day?—A. All day, except when I went out to urinate.

For contestee:

J. R. Flewellen swears:

Q. Was the ballot-box, whilst at the supper-house, at any time kept in a secreted condition?—A. It was not.

Q. Was it kept, while at the supper-house and while at the polling place, in a lighted or dark room—in a lighted or dark?—A. The ballot-box at all times was in a lighted room, and open to the public.

Samuel D. Reid swears:

Q. At the time of taking the ballot-box from the polling place to the supper room, was any protest made or objections raised by the Republicans or any of them to such removal?—A. No objections were made to me, and if made to others, I did not hear it.

Q. Did the Republicans or any of them insist on following the box into the supper room to see that it was not tampered with, and were they not prohibited or refused admission into the room, and was not this refusal the cause of Trapp's using the language you characterize as obscene?—A. There was no one refused admission that I

know of. On the contrary, I told them that they could go to the doors and windows and look at it all the time. A number of the voters did follow the box from the polling place to the supper room.

Q. Of this number, were there mostly Democrats or Republicans, and were they or any portion of them admitted into the supper room?—A. They came to the doors and windows. I did not invite them in. There was no guard to keep them out and no hinderance that I knew of.

Virgil George swears:

Q. What was done with the ballot-box while you were at supper?—A. I held the box while the two other inspectors were eating, in their presence. After they were through eating, I gave Mr. Flewellen the box, and he then held it in the presence of myself, Edward Sammons, and Mr. Reid.

Q. Were there not other Republicans who followed the inspectors from the polling place to the eating-house where they carried the box with them so supper?—A. Yes, sir; I did not count them, but it looked like there were seventy or eighty.

Q. Was the hotel or boarding-house where you kept the box lighted up or in the dark?—A. The house was kept lighted all the time.

Samuel C. Tucker swears:

We decided to go to supper; that is, the inspectors and the United States supervisors, Edward Sammons and Jno. G. Bird. Mr. Flewellen then handed the ballot-box to Virgil George, the Republican inspector, and then we proceeded to Mrs. Burk's to get our supper, all together, the inspectors and sup rvisors, and we walked over to Mrs. Burk's in the following order, as well as I can recollect: Virgil George, the bearer of the box, walked between Flewellen, one of the inspectors, and Edward Sammons, the Republican United States supervisor, and I walked behind them to the supper-table.

Q. Were you present with any of the inspectors at supper?—A. I was, until I got through eating.

Q. Where was the ballot-box?—A. While myself and Mr. Flewellen, and I think Mr. Reid, were eating, the ballot-box was in the custody of Virgil George, in our presence, while we were eating, and, to the best of my recollection, Edward Sammons, the Republican United States supervisor, was sitting by the side of Virgil George, the bearer of the box. I then left the supper-house, leaving the parties in the same position as above stated.

Q. What was the character of the election held at Arredonda on that day?—A. It was of a most quiet and peaceable character.

The law of Florida provides that "as soon as the polls of an election shall be finally closed the inspector shall proceed to canvass the votes at such election, and the canvass shall be public *and continued without adjournment until completed.*" (Pamphlet laws of 1877, sec. 21.)

It was illegal therefore for the election board to adjourn before completing the canvass of the votes. But unless the adjournment is shown to have afforded the facilities for fraud, or that during it the box w. s concealed and tampered with, there is no reason why the adjournment should operate to taint or discredit the poll. There is no witness pretends that any fraud was committed during the adjournment. The box was taken by the officers of the election from the polls to the boarding-house with a large crowd following as witnesses. It was kept in the custody of one of the officers of the election, watched by one or more of the other officers all the time in a public, open, well-lighted room. The testimony of Mr. Sammons and Mr. George is conclusive on the point that there was no fraud or opportunity for fraud.

But it is contended by contestant that the great falling off in his vote as returned at this poll is evidence of fraud. In answer to this point the contestee cites the proof to show that there was a bitter division in the Republican ranks in the precinct, which satisfactorily accounts for the smallness of Mr. Bisbee's vote.

J. T. Walls, contestant's witness, swears:

Q. Do you know whether or not there were two divisions of the Republican party, headed by separate tickets, for the legislature in Alachua County during the last campaign?—A. There were.

Q. Were you or not a candidate for the State senate on one of those tickets, and the leader of one of those factions?—A. I was a candidate for the senate on one of those tickets, and was the leader of one of those factions.

Q. Do you know the Hon. L G. Dennis?—A. I do.

Q. Was he or not a candidate of one of these Republican factions above spoken of for the legislature?—A. He was a candidate on what was known as the Rush ticket for the assembly. Rush was a Republican candidate, and was one of my opponents for the senate, and the other was Mr. J. B. Dell, Democratic candidate.

Q. Was or not the Hon. L. G. Dennis an opposer or supporter of Mr. Bisbee for Congress?—A. I suppose he was an opposer, from his speeches made during the campaign, and that was the issue between the two factions, his opposition to Colonel Bisbee.

Q. Do you not know that he denounced Bisbee from the stump during the political campaign in the county?—A. I heard him on several occasions denounce Colonel Bisbee, and have been informed that at other times he spoke in favor of Colonel Bisbee. As to his denouncing him throughout the country, I am unable to say, because I do not know.

Q. Did you not hear or understand that there was during the campaign some endeavor made towards a reconciliation between Bisbee and the Dennis faction?—A. The only information I have on that subject is a letter that Dennis read at a public meeting from Colonel Bisbee, which letter requested Dennis not to speak at that meeting; and, if he did, not to bring up local matters, but he would like to hear from him on State and national questions.

Q. Did or not Dennis continue the fight until the election was over; or did he, yielding to Colonel Bisbee's request, then cease to oppose him after the reading of that letter?—A. The fight was continued until the election was over. The night before the election in the town of Gainesville, as I am informed, and it was generally known that he, at a public meeting, openly denounced Bisbee and stated that he had not supported Bisbee, and advised his friends not to do so.

Q. Do you believe that L. G. Dennis, and do you not know that L. G. Dennis, or any one else, could not make that an issue in this county at the polls successfully in the last campaign?—A. I believe and know that L. G. Dennis and others opposed Colonel Bisbee from the beginning of the canvass until the day of election, but to what extent and influence I do not know.

Q. Did you or not see any Republican tickets at Arredonda on the day of election that did not have Bisbee's name on them as candidate for Congress?—A. I did see some such tickets with Bisbee's name not on them.

W. F. Rice, contestee's witness, swears:

Q. Do you or not know that in the political campaign that preceded the last election in said county of Alachua the Republican party of said county was divided into factions, and that those factions were very much imbittered against each other?—A. It was divided into factions, and there was considerable bitterness against each other.

Q. Was it or not generally known that the Hon. L. G. Dennis was the leader of one of those factions, and J. T. Walls the leader of the other?—A. It was.

Q. Do you or not know, and was it not a matter of public notoriety in the county, that Dennis was an opposer of Mr. Bisbee for Congress, and that J. F. Walls was his supporter?—A. It was.

J. R. Flewellen, contestee's witness, swears:

Q. Were you in Alachua County during the political campaign which preceded said election?—A. I was only here a week preceding the election.

Q. Do you know whether or not the Republican party in said county of Alachua was divided into factions?—A. They were.

Q. State whether or not the leaders of these respective factions were acrimonious and bitter towards each other.—A. They were very bitter.

Q. How do you know?—A. I heard them abusing each other, and at Republican meeting, held in the yard of the United States land-office, in Gainesville, on Saturday before the election, the Walls faction of the Republican party spoke very abusively indeed of the Dennis faction of the Republican party. Nearly all of the entire speeches made by the Walls faction were abuses of the Dennis faction. Immediately on the close of their speaking Mr. Dennis rose to go on the platform, and the Walls faction tore it down to keep him from speaking. Also tore down the tables on which the crowd had dined. Mr. Dennis got on a large box, which the Walls faction pulled out from under him. Mr. Dennis had to retire without speaking.

Q. Do you know whether Mr. Bisbee spoke there on that day?—A. I do not know.

Q. Please state whether or not you heard the Republican supervisor, Edward Sammons, and the Republican inspector, Virgil George, make any statement on the day of t e election in reference to its probable result, and the cause of such result.—A. About two o'clock each of them told me that they were satisfied that the Democrats had carried the election here, because the colored men had deceived them, and were

voting the Democratic ticket. Ed. Sammons remarked that he was perfectly disheartened and ready to give it up. They repeatedly repeated this from that time until the polls closed.

Q. Was there any additional cause of the probable defeat of the Republican party at said poll assigned by them, or either of them, by attributing their defeat to any individual; and, if so, what?—A. They attributed it to L. G. Dennis splitting the Republican party in this county.

Q. Can you state whether or not the Democratic party were before and at the election united and harmonious, or whether they were divided, as you say the Republicans were?—A. They were united and harmonious.

Q. Do you know if Captain Dennis was a supporter or opposer of Colonel Bisbee?

A. I heard Mr. Dennis abuse Colonel Bisbee in very strong terms. He had printed, and caused to be circulated, a full set of tickets with no one's name on it for Congress, which some of said tickets were voted at the Arredonda precinct. These tickets were circulated all over the country, to my certain knowledge.

Q. Were these tickets above spoken of, which you say were blank for Congress, Republican or Democratic tickets?—A. They were Republican tickets.

Q. How do you know that any of these tickets were voted at the Arredonda precinct?—A. I counted them out of the box when canvassing the vote, and saw them to be such.

Q. Can you state whether there were a few or a great many of these tickets in circulation at Arredonda, from your observation?—A. There were a great many.

Samuel D. Reed swears:

Q. Do you know L. G Dennis?—A. I do.

Q. Can you state whether or not the Republican party of Alachua County, during the last political campaign, when a member to Congress from this Congressional district was to be elected, was divided into factions, or was it solid?—A. It was divided into factions.

Q. Who were the respective leaders of these factions?—A. L. G. Dennis, a Republican, but an anti-Bisbee man, was the leader of our faction, and J. T. Walls was the leader of the Bisbee faction.

Q. Do you know whether or not there were a considerable number of Dennis tickets in circulation, and voted at Arredonda at said election?—A. There were a majority of Republican tickets on which Bisbee's name did not appear; they were blank for Congressmen. These were known as Dennis tickets.

Q. Please state how you know that many of the colored voters voted the Dennis or blank ticket for Congress. How many, and, if possible, their names?—A. I don't know how many voted it, nor the names of those who voted it. I only know by seeing the ballots in the box when they were canvassed, and from the fact that the Dennis faction claimed the right to be admitted to the polling-place, and to keep a tally-sheet.

Q. Do you know J. T. Walls?—A. I do.

Q. Was he at Arredonda on the day of election?—A. He was.

Q. Did you see and converse with him on that day?—A. I had a conversation with him that night after the polls were closed.

Q. Was that conversation in regard to the election at Arredonda on that day?—A. It was.

Q. What did he say about that election?—A. I asked him if there had been any irregularities in the election on that day. He said there had not that he knew of or could object to (I forget what his language was), except that it might be considered irregular for the inspectors to go to supper before they counted the vote.

Virgil George swears:

A. I heard Sammons state on the day of election, about 3 o'clock p. m., that he believed the Republican party was beat, for the reason, as he expressed it, that a great many negroes were voting the Democratic ticket; also that Dennis was stronger than he thought for.

Q. Was said Supervisor Sammons a Republican or Democrat?—A. He was a Republican.

Q. Was the Republican party united in the last campaign, or was it divided into factions?—A. It was not united; it was badly divided.

Q. Who were the leaders of those respective divisions or factions?—A. Mr. Walls was a leader of one part, and Mr. L G. Dennis the other.

Q. Can you state whether or not these factions were very bitter against each other during the last campaign?—A. It seems that they were.

Q. Did you attend any Republican political meetings during the last campaign?—A. I did.

Q. Were there or not, within your knowledge, any Republican clubs in the county?—A. Yes, sir; there were.

Q. What were they called?—A. The Garfield club.

Q. Did you belong to or attend any of them?—A. I did not.

Q. State whether or not, if you know, Mr. Dennis was a supporter or opposer of Mr. Bisbee for Congress? How was he regarded?—A. I understood, but did not hear him say so, that he was opposed to Mr. Bisbee.

Q. Did you or not, during election day at Arredonda, in the afternoon of that day, hear the Republican supervisor, Edward Sammons, express any apprehension or fears that the Republican party would be beat?—A. I did, sir.

Q. To what cause did he attribute it?—A. He said that he felt that we were getting beat, and seemed very much disheartened, and spoke of the party being split up, and assigned that as a cause.

Q. Were you present at the canvass of the vote at Arredonda?—A. I was.

Q. State whether or not, if you recollect or observed, there were any Republican tickets in the box which did not have Mr. Bisbee's name on them for Congress?—A. There were some there, but cannot say how many—did not keep any count.

Samuel C. Tucker swears:

Q. Do you know whether or not the Republican party during the political campaign which terminated in the late Presidential and Congressional election, the Republican party in Alachua County, Florida, was united or divided?—A. They were materially divided.

Q. State who were the respective leaders of the factions of the Republican party of said county.—A. They were demominated here as the Dennis and Walls factions.

Q. Do you know, or was it a matter of public notoriety during the late campaign, that Dennis was a supporter or opposer of Mr. Bisbee for Congress?—A. He was not a supporter of Bisbee, and it was generally believed that he exercised every effort in his power to defeat him.

Q. Were there any tickets in that ballot-box at the time of the canvass which were Republican tickets, that did not contain the name of Mr. Bisbee for Congress?—A. I had no access to the box, and consequently had no opportunity of knowing, only as the inspectors called them out, but I saw a good many tickets of that character during the day distributed around.

Amos George, a colored voter, swears:

Q. Are you a registered voter of Alachua County, and were you such at the election held in November last?—A. Yes. sir.

Q. What was the character of that election; was it a peaceable and quiet election, or was it otherwise?—A. It was as quiet election as I ever saw.

Q. Do you know Edward Sammons?—A. I do.

Q. Did he act in any official capacity at the late election in November last?—A. Not that I know of.

Q. Can you state whether or not there were a good many supporters of the Dennis ticket at Arredonda at said election?—A. I do not know.

Q. Did you or not hear Edward Sammons say anything about said election? State what you heard him say.—A. I heard him say after the election was over he went to Gainesville, and the woman wanted to jump on him and fight him for telling the negroes to vote the Democratic ticket. He told them that he could not help it; that is what I heard him say.

Q. Did he say anything further?—A. Not as I know of.

Q. Are you a colored man or white man?—A. I am a colored man.

Q. Did you or not vote the Democratic or Republican ticket at the last election?—A. I aimed to vote the Democratic ticket.

Q. How long have you been a Democrat?—A. I have been a Democrat all my days.

This testimony shows that there were two candidates for the office of State senator—Mr. Walls and Mr. Dennis—running in this district; that they headed very bitter and earnest and hostile factions of the Republican party; that the Walls faction favored Mr. Bisbee, but that the Dennis faction was very much opposed to him; that the fight was carried down till the close of the election; that Mr. Dennis, at this poll, received just the same number of votes which Mr. Bisbee fell behind his ticket; that Mr. Dennis's tickets did not have Mr. Bisbee's name on.

Julius A. Carlisle swears that—

Having counted the ballots, there were three hundred and thirty in the box.

Q. Please examine, ascertain, and state if there are any Republican tickets that are

blank for member to Congress; and if so, state how many.—A. Witness having examined states there are (85) eighty-five.

Q. Please examine, ascertain, and state the number of ballots in the box for Jesse J. Finley for Congress.—A. The witness having examined the ballots, states: "There are one hundred and seventy-two votes for Jesse J. Finley for Congress."

Q. Please examine and state how many votes there are in said box for Horatio Bisbee, jr., for Congress.—A. The witness having examined the ballot-box states: "There are sixty-eight (68). There are also five Republican tickets with Horatio Bisbee, jr.'s, name scratched."

Q. Please examine and state the number of votes for the Republican electors.—A. The witness having examined the ballots states: "There are one hundred and forty-eight (148) ballots for the Republican electors and two Republican tickets with the Republican electors scratched."

Q. Please examine and state the number of votes or ballots for the Democratic electors.—A. Witness having examined the ballots states: "There are one hundred and seventy-two (172) ballots for the Democratic electors."

Q. Please examine and state the number of ballots in the box for the Democratic candidate for governor.—A. Witness having examined the ballots states: "There are one hundred and seventy-two votes for the Democratic candidate for governor."

Q. How many votes do you find for the Republican candidate for governor?—A. Witness having examined the ballots states: "There are one hundred and forty (140) votes for the Republican candidate for governor, and 17 scratched, and one with the name of the candidate for governor torn off.

Q. Please examine the eighty-five Republican tickets which you say are blank for Congress, and state whether Leonard G. Dennis' name appears on them, or any of them; and, if so, how many?—A. Witness having examined those ballots states: They all have the name of Leonard G. Dennis on them."

Q. For what office?—A. For a member of the assembly.

The evidence, on pages 398–399, shows 330 ballots in the box. The votes for governor shows—

For Bloxham, Democrat	172
For Conover, Republican	140
Scratched	17
One with name torn off	1
	330

Making the vote for governor equal to the *number of ballots in the box.*

Again, on the Congressional ticket, the evidence shows—

For Finley	172
For Bisbee	68
Blank (Dennis's vote)	85
Scratched	5
	330

In response to this testimony the contestant has called and sworn 260 persons who say they voted for him at this poll. But this is contradicted, first, by the fact that Mr. Dubose, the president of the Republican club at the place, swears there were only 164 members of that organization, which is about the number of votes polled by the Republicans; second, by the fact that only 140 voted for the Republican candidate for governor; third, by the fact that the proof proves too much. If 260 voted for Mr. Bisbee, which is the full vote for Congress, what becomes of the large vote concededly cast for Mr. Finley? But there is a grave objection to the testimony of voters to show the true state of a poll in such a case as this, and surrounded by such circumstances. The voters were mostly illiterate and could not read their tickets, and the Dennis Republican ticket did not have Mr. Bisbee's name on it. How could they say any more than that they voted the Republican ticket? Besides, not only are political leaders liable to conceal their cutting a party ticket, but ignorant voters, who would incur the odium of their neighbors for admitting a deviation from the party paths, are also likely to deny the fact, and particularly when they have the addi-

tional shield for their consciences that they may not and perhaps cannot know certainly how they voted. Besides, if it is true that the full Republican vote was cast for Mr. Bisbee at Arredonda, and that Mr. Dennis did not cut him to the full extent of his power, why is not Mr. Dennis, a prominent Republican, called? If Mr. Bisbee really believed that Mr. Dennis and his faction did not cut him, the clear, well-defined, and intelligent course would have been to call and swear him. Then what we now see through a glass very darkly we could have seen face to face. But Mr. Bisbee did not call this prominent Republican, Mr. Dennis—the little giant of Alachua—and I believe he had a good reason for the omission—I believe the preponderance of the evidence shows that the election at Arredonda was a fair and just expression of the voters as they actually cast their ballots. It is utterly immaterial to this contention whether they intended to vote otherwise than they did. If Mr. Dennis got his work in by voting tickets without Mr. Bisbee's name on, we cannot allow the persons who cast them to vote over. In the case of Biddle & Richard *vs.* Wing, Nineteenth Congress, which was one of the best-considered cases ever decided by the House of Representatives, the committee very appropriately say on this point: "The committee are of opinion that the duty assigned to them does not impose on them an examination of the causes which may have prevented any candidate from getting a sufficient number of votes to elect him to the seat. They consider that it is only required of them to ascertain who had the greatest number of legal votes actually given at the election."

But suppose we admit, for the purposes of the further discussion of this point, that there are some evidences of irregularity and illegal and improper conduct on the part of the officers of the election at Arredonda, we must then inquire what is the amount of irregularity, and what is the character of the improper conduct on the part of said officers required by the law to vitiate and set aside the return, and permit *aliunde* proof of the votes cast?

The law on this subject is very fully and clearly laid down by Mr. McCrary in his work on Elections, sec. 302, wherein he states that mere irregularity does not vitiate the return, but only where the provisions of the election law have been entirely disregarded by the officers, and their conduct has been such as to render their returns utterly unworthy of credit, the entire poll must be rejected. In such case the return proves nothing, but the legal votes cast at such poll may be proven by secondary evidence; but he states very clearly that the return, until so impeached, is the primary evidence. In support of the doctrine of this section (302) he cites 1 Chicago Leg. News, 230; Brightley's Election Cases, 493; McKenzie *vs.* Braxton, Forty-second Congress, and Giddings *vs.* Clark, *ibid.*

In section 303 of the same book it is said: "The power to reject an entire poll is certainly a dangerous power, and should be exercised only in an extreme case—that is to say, where it is impossible to ascertain with reasonable certainty the true vote. It must appear that the conduct of the election officers has been such as to destroy the integrity of their returns and to avoid the *prima facie* character which they ought to bear as evidence before they can be set aside and other proof demanded of the true state of the vote." In support of this doctrine three cases are cited from 1 Brewster, viz, Mann *vs.* Cassiday, Thompson *vs.* Ewing, and Weaver *vs.* Givin, and the case of Gibbons *vs.* Stewart, from 2 Brewster.

In section 304 of McCrary, the language of the supreme court of Pennsylvania, in Chadwick *vs.* Melvin, is quoted, which declares "that

there is nothing which will justify the striking out of an entire division but an inability to decipher the returns, or a showing that not a legal vote was polled, or that no election was legally held." The case of Riddle and Richard *vs.* Wing, *supra*, is also cited as giving the correct doctrine, which holds: "Indeed, nothing short of the impossibility of ascertaining for whom the majority of votes were given ought to vacate an election." (See also McCrary, 436, 437, 438). Under the law, as laid down in these citations, does the evidence justify the rejection of this poll? Have *all* the provisions of the election law been entirely disregarded by the election officers; and are the returns utterly unworthy of credit? Is it impossible to ascertain with reasonable certainty what the true vote is, and is it necessary to exercise the dangerous power of rejecting the poll, which the law says should only be done in extreme cases? We think not. But in addition to the provisions of the law, which declare what kind and amount of proof of fraud and illegality are required to reject a poll, the contestee very properly refers also to those presumptions which the law always throws around sworn officers, and those equally important presumptions of law, which are always in favor of innocence and right and against fraud and wrong. It is a well-settled and fundamental principle of law that in all cases and at all times, all presumptions are against fraud and in favor of fairness. Fraud is never presumed, even from suspicious circumstances. When charged it must be proved. It is unnecessary to cite authorities in support of this. What is done by sworn officers in the pursuit and discharge of their duties is always presumed to be rightly done, and nothing but clear and convincing and unequivocal proof can destroy the credit and validity of their official acts. (See McCrary, section 87, &c.; see also Skerrett's case, Brightley's Leading Cases on Elections, page 820 and page 333, where the court holds this language: "What has been done by the sworn agents of the law is always to be presumed rightly done; and those who seek to impeach the acts of these functionaries must not expect to be entertained, if, instead of bringing positive, tangible, and direct charges, they content themselves with general, argumentative, and theoretic imputations.")

THE NEWNANSVILLE POLL.

This poll is assailed on the charge of fraud, and contestant asks that the return be rejected as evidence, and that no votes shall be counted for either party except such as have been proven by testimony *aliunde* the return.

The return gave Mr. Bisbee 150 votes and Mr. Finley 146 votes. What is the fraud charged against the return upon which it is asked to reject it?

First. That 29 more votes were found in the ballot-box than there were names on the poll-list.

Second. That one witness swears that "we found *two* tickets folded together; we cannot tell whether they were so when they were put in or not."

Third. That in drawing out the excess of tickets in the box in conformity to law there may have been more Republican votes extracted than Democratic.

To show on what a frail foundation the contestant proposes to base his case in this instance, we will reproduce the whole testimony of his own witness, Edward Taylor, who was the Republican manager at this poll.

EDWARD TAYLOR, a witness produced and sworn, testified as follows:

Question. What is your name, place of residence, and color?—Answer. My name is Edward Taylor; I live in district No. 3; I am a colored man.

Q. Are you a registered voter of Alachua County, Florida?—A. Yes.

Q. Did you vote at the election held on the 2d of November last; if so, what ticket did you vote, Democratic or Republican, and where did you vote?—A. I voted at Newnansville; I voted the Republican ticket.

Q. Did you vote for member of Congress for the second Congressional district of Florida at the last election, and for whom did you vote?—A. I did; I voted for Horatio Bisbee.

Q. Did you hold any official position at that election; if so, what was it?—A. Yes; I was one of the managers of the box at Newnansville.

Q. Were you, or not, present all day at that election when the votes were polled?—A. I was present all day, during the voting, and the counting of the votes after the polls were closed.

Q. Do you, or not, know of any ballots being taken out of the ballot-box? If so, state fully all you know about it.—A. We first proceeded to count the votes one by one. Mr. Hodge, one of the inspectors, counted the votes first; then I counted them. Mr. Hodge counted one hundred and fifty and I counted one hundred and seventy-one. Then we put them in the ballot-box and stirred them up; we went and tore up and destroyed all the ballots more than there were names on the tally-list; there were twenty-nine more tickets in the box than there were names on the tally-list.

Q. How did it happen that there were twenty-nine ballots more in the ballot-box than there were names on the tally-list?—A. We cannot exactly account for it; we found two tickets folded together; we cannot tell whether they were so when they were put in or not.

Q. When these twenty-nine ballots were taken out of the box were they folded up, or were they open?—A. Twenty-one of them were folded; eight were opened.

Q. Do you know, of your own knowledge, whether these tickets that were destroyed were Democratic tickets or Republican tickets? State fully.—A. There were some of each.

Q. How many Democratic tickets were there, and how many Republican tickets were there taken out and destroyed?—A. I can't tell how many of each there were taken out; I know there were some each.

Q. Who took these twenty-nine tickets out of the box and destroyed them?—A. Geiger took out twenty-one and I took out eight.

Q. When these twenty-nine tickets were taken out of the box were they folded, or could it be plainly seen what they were, Democratic or Republican?—A. When we drawed the twenty-one they were folded; when we drawed the eight they were unfolded.

Q. Do you know whether the eight tickets you took out of the box were Democratic or Republican?—A. There were some of each.

Q. How many of each? State if you know.—A. The twenty-one tickets were torn up; the eight were burned. I took them up to light my pipe with, and I saw the face of them, and five of the eight were Republican tickets and three of them were Democratic.

Q. Did you see the two tickets that were folded together, so as to tell what they were, Democratic or Republican?—A. Yes, I saw them; they were Democratic tickets.

Q. Did the Republicans of this district have an organization or club during the campaign last fall?—A. Yes; I don't know how many belonged to it.

Q. Is it not true that the election held on the 2d day of November, at Newnansville, was conducted fairly and legally, and without any fraud whatever?—A. Yes, sir; as far as the managers were concerned.

Q. State whether or not, when the votes were counted, the managers canvassed them with the utmost fairness without regard to political character, and in the destruction of the overplus ballots cast they were drawn from the box by and with the consent of each inspector without any knowledge as to whether they were Democratic or Republican ballots, and whether or not the destruction of said ballots was done for the purpose only of making the tally-sheet of voters correspond to and with the number of ballots cast?—A. They were.

Q. State whether or not any legal voters were rejected from the polls. On the contrary, was not every voter at said precinct who was legally authorized to do so permitted to cast his ballot quietly and peaceably?—A. They were.

Q. State whether or not the election at said precinct on said day was quiet, peaceable, and orderly.—A. It was.

Valentine, a deputy marshal, one of contestant's witnesses, who was

a political friend and supporter of contestant, swears, on p. 26 of the record:

Well, the votes were counted out, and then there was more votes in the ballot-box than there was names to balance with; then the votes was all put back into the ballot-box, and shaken together, and then they put their hand into the box and took out, I think, twenty nine votes to make the number even on the list. I thought they tried to do it fair.

This witness further testifies that there were several counts of the votes and several drawings from the ballot-box to make the number of ballots in the box correspond with the number of names on the poll-list, as the law requires. He further testifies, on same page, 26 of record:

I do not know whether they (the ballots in excess) were Democratic or Republican: they were not looked at. As far as I could see, everything went right, excepting one man was objected voting, but they let him vote; that was all I see.

In connection with this testimony we cite the law of Florida applicable to the subject, which provides:

As soon as the polls of an election shall be finally closed, the inspectors shall proceed to canvass the votes cast at said election, and the canvass shall be public and continued without adjournment until completed.

The votes shall be first counted; if the number of ballots shall exceed the number of persons who shall have voted, as may appear by the clerk's list, the ballots shall be replaced in the box, and one of the inspectors shall publicly draw out and destroy, unopened, so many of such ballots as shall be equal to such excess.

The testimony of the contestant himself shows that the excess of ballots in the box were drawn out under the supervision and with the consent of both inspectors, and strictly in accordance with the law which, instead of implying fraud from such an excess, attributes it, in conformity to the spirit of common sense and fairness, to the mistakes of the clerks or electors. It is shown that the election was conducted fairly and legally, and without any fraud on the part of the officers of election; that the votes were fairly and honestly canvassed and counted; that every legal voter was permitted to vote; that the election was quiet, peaceable, and orderly. We have no hesitation in saying that the claim of the contestant to throw out the whole vote of the contestee at this poll and count the whole vote of the contestant, in view of the testimony and the law, is the boldest and most unwarranted demand that has ever been made of a committee of elections in all the diversified annals of election cases. If a return such as this, made regularly in all respects by sworn officers, and surrounded, therefore, by all the strong presumptions of honesty and integrity which attach to sworn official action, and corroborated and confirmed further, and almost overwhelmingly, by the testimony of the intelligent Republican manager who helped to conduct the election, and was the watcher of the interests of that party; if such a return is to be overturned and destroyed by the uncorroborated and partisan testimony of one person, a clerk in the government land-office, then there may as well be an end of election contests.

THE PARKER'S STORE POLL.

The official return of this poll gave Mr. Bisbee 151 votes and Mr. Finley 155 votes.

The contestant, without one scintilla of testimony in the remotest way attacking or assailing the correctness of this return, proposes to throw it out. He assumes, without any evidence, that it is fraudulent. The law says until it is impeached by clear and convincing proof it is itself the primary evidence of the vote, and that until it is so impeached and

vitiated and rendered worthless as evidence, no other evidence of any kind, either of the voters or otherwise, can be introduced. It is hardly worth while to debate such a proposition as that of the contestant in this instance. If he is right, the primary and fundamental rule of evidence is abrogated and destroyed. But he not only proposes to override the laws of evidence, but he proposes to violate the plainest principles of common fairness and to throw out all of contestee's votes and count more than all his own.

BREVARD COUNTY.

The contestant insists that the election in this county is illegal and void on the following grounds:

1st. There were no registration books provided and used in the county, and no legal registration of the electors, as required by law.

2d. From some of the polls the certificates of the result of the election were sent in to the clerk of the court by mail instead of being carried in by an officer of the election, as the law provides.

3d. Because there were nearly one hundred more votes returned than there are names on the informal and illegal registration lists used at the election.

Section 7 of the amended statutes of Florida of 1877 provides, *inter alia*, for "a well-bound and suitable book," in which shall be written or printed the oath required to be taken by electors. This book is the general registration book for the entire county, and in it the names of all the voters, with the *date of registration*, must appear. In addition to this book, the law requires a separate registration book for every election district into which the county is divided. (Section 8, Laws of 1877.)

In support of the foregoing objections to the returns from Brevard County the contestant relies upon the following testimony, taken by himself, *ex parte*, without notice, and out of time:

J. A. McCrory (Rec. 404-405), being duly sworn, testifies as follows:

Question. What is your name, age, official position, and place of residence?—Answer. My name is James A. McCrory; aged 26 years; county judge and deputy clerk of court; residing at Titusville.

Q. How long have you held each office?—A. I have been deputy clerk since August, 1880, and county judge since March, 1881.

Q. Where is the county-site of Brevard County, and what election district is it in?—A Titusville; election district No. 2.

Q. What is the entire number of election districts in Brevard County?—A. There is twelve election precincts or election districts.

Q. Has any of those election districts been established since November 1, 1880?—A. No; none.

Q. Have you read and are you acquainted with that provision of the election laws of Florida prescribing a certain form of registration book to be used by registration officers?—A. Yes.

Q. Has that book in the form prescribed been provided for or by or used in Brevard County?—A. No; not to my knowledge.

Q. To your knowledge were deputy clerks or registration officers appointed by the clerk of the court in each of the several election districts on the first Monday in October, 1880, or thereafter during that month?—A. They were appointed, but I cannot swear to the time or date.

Q. Were those registration officers appointed for every precinct?—A. To the best of my knowledge they were.

Q. Were lists of the electors registered by those officers during the month of October, 1880, returned to the clerk's office before the day of election?—A. To the best of my knowledge some were, and some were not.

Q. Were the lists so returned bound in book form, or upon loose sheets of paper?—A. On loose sheets of paper.

Q. Was there written or printed upon any or all of those lists so returned at the time of their return an oath to this purpose or effect: "I do solemnly swear to well and truly perform the duties of deputy clerk and registration officer according to the requirements of the constitution and laws of Florida, so help me God"?—A. To the best of my recollection it was on some, and on some it was not.

Q. Were there written or printed upon any or all of these lists so returned at the time of their return an oath to this purport or effect: "I do solemnly swear that I will support, protect, and defend the Constitution and the Government of the United States and the State of Florida against all enemies, foreign or domestic; that I will bear true faith, loyalty, and allegiance to the same, any ordinance or resolutions of any State convention or legislature to the contrary notwithstanding, so help me God"?—A. To the best of my recollection it was on some, and on some it was not.

Q. Was there written or printed upon any or all of those lists so returned any heading or certificate showing that they were lists of registered voters, and showing the number or name of the election district or precinct from which the said lists came?—A. There was on some, and on some there was not.

Q. From what election precincts or districts were lists of registered voters not returned by the registration officers?—A. To the best of my knowledge they were precincts west of the Saint John's River.

Q. Were poll-lists returned from any precinct with the returns of the election?—A. Yes.

Q. By whom were the returns of the election of the various precincts brought to the clerk's office?—A. To the best of my recollection they were brought by inspectors of the elections from all the precincts but two.

Q. What two precincts were those, and in what way did the returns come to the clerk's office from those precincts?—A. The returns from precinct Fort Drum (No. 11), and Fort Prince (No. 5), was sent by registered letter through the mail.

It will be observed that Mr. McCrory only became deputy clerk in August, 1880, and the election was in November. He does not swear that no registration book had been provided and used in Brevard County, but says there was none to his knowledge. He swears to the best of his knowledge that the registration officers were appointed, and that to the best of his knowledge some of the registration lists were returned to the office and some not. He swears also that those returned were on loose sheets of paper, but they were the lists. He swears all through only to the best of his knowledge, which is very natural for a young officer acting only as deputy and for so short a time. But there is the testimony of the sheriff on this subject introduced by the contestant.

W. F. RICHARDS, being duly sworn, testifies as follows:

Question. What is your name and what official position do you hold?—Answer. My name is W. F. Richards; and am sheriff of Brevard County, State of Florida.

Q. Did you receive from the clerk of court of Brevard County, a few days before the last general election, certain ballot-boxes and lists of registered voters to be delivered to the inspectors at the different election precincts?—A. I did.

Q. Did you deliver, or cause to be delivered, at each and every precinct, its proper box and list of registered voters before the opening of the polls on the day of election?—A. I did at all, except at the Fort Prince precinct (No. 5), which I was unable to reach in time.

He swears that he delivered to every precinct but one, Fort Prince precinct No. 5, the proper box and *list of registered* voters before the opening of the polls on election day. Therefore every precinct but the one omitted had all the papers necessary to hold a legal election.

Now the contestant has put in evidence the general returns for Brevard County, and all the precinct returns properly certified, including Fort Prince precinct No. 5. These returns will be found in the record from pages 1085 to 1102. The returns from Fort Prince precinct will be found on page 1102, and show that Mr. Bisbee received 8 votes and Mr. Finley received 9 votes. If, therefore, the vote from this precinct is illegal it can very easily be ascertained and deducted.

The contestant also put in evidence the general return of the county

which is found on page 1085 of the record, and to which is appended the following certificate:

STATE OF FLORIDA,
County of Brevard:

I hereby certify the above is a true and correct copy as shown on the records in the clerk's office, at Titusville, Brevard County, Florida.

In witness hereof I set my hand and the seal of my office this the 27th day of December, A. D. 1880.

A. A. STEWART,
Clerk Circuit Court in and for said County and State.

He also put in evidence a certified copy of the general registration book, which will be found on page 1090 of the record, and to which is appended the following certificate:

Registration list of Brevard County.

STATE OF FLORIDA,
County of Brevard:

I hereby certify that this is a true and *correct copy of the registration book now in this* office.

In witness whereof I hereunto set my hand and affix my seal of office, this the 27th day of December, A. D. 1880.

[SEAL.] A. A. STEWART,
Clerk Circuit Court in and for said County and State.

This certified list contains the names of 350 voters. The general return shows that Mr. Finley received 222 votes and that Mr. Bisbee received 74 votes.

All this testimony was taken by the contestant *ex parte* and without notice, but it shows that there was a substantial compliance with the registry law, and that the voters should not therefore be disfranchised because of the neglect of the officers who may have failed to furnish in all cases the proper registration lists. This is the law plainly laid down in Wheelock's case (1 Norris, 297), which was decided in Pennsylvania under a statute like the one in Florida. In Wheelock's case it appears that the general registration list had been made, and was on file in the commissioner's office, but there was no registration list at all at the polls. In that case the supreme court say:

To disfranchise all the voters of a township, as we are asked to do in this petition, the facts on which we are required to act should show a case free from legal doubt. If we, by our decision, should permit the carelessness or even the fraud of officers whose duty it is to furnish a list of voters at the elections to defeat the election and deprive the people of the county of the officer who was elected by a majority of their votes, we would thus make the people suffer for an act in which they did not participate and which they did not sanction. In so doing, instead of punishing an officer for the violation of the election law we practically punish the voters of the county by defeating their choice of a county officer as declared at the election. A decision of this kind would be fraught with danger by inciting unprincipled or unscrupulous persons on the eve of an important election to recreate or destroy the list of voters or other important papers in a township in which the majority may determine the result in the county. Rules applicable to contested elections like other legal rules must be uniform, and the results and consequences of decisions therefore determine their correctness

MARION COUNTY.

The contestant claims that 122 votes not cast ought to be added to the returned vote for him from this county on the ground that these votes were illegally rejected.

By reference to his brief, page 35, it will be seen that he attributes this to the erroneous ruling of the election officers in holding that unregistered voters could not vote. The contestee's counsel denies that

these votes should be added to contestant's majority in this county, and states the law on the subject to be as follows, viz:

In order that a vote *not cast* shall be counted, as if cast, it must appear that a *legal* voter offered to vote a particular ballot, and that he was prevented from doing so by fraud, violence, or an erroneous ruling of the election officers.

The burden of proof of all these facts is upon the party who seeks to have the votes not cast counted for him. It devolves upon the contestant therefore to prove that each one of these votes was a *legal* voter, and that his vote was illegally rejected.

The ground upon which it is claimed and admitted that these 122 votes not cast were rejected, was because they had not registered, or their names were not found on the registration list.

The election law of Florida requires registration at least ten days before the election. The law is as follows:

No person shall be entitled to vote at any election unless he shall have been duly registered at least ten days previous to the day of said election, nor shall any one be permitted to vote at any other voting place or precinct than that of the election district stated opposite his name on the county registration list. (See act of legislature of Florida, 1877, pam., p. 69, sec. 3.)

Prima facie, all persons whose names are not found on the registration list are not legal voters; and in order to entitle them to vote, their names not being on the list of registration, it is incumbent on them to make every preliminary proof which the statute requires.

The election law of Florida, section 7, page 71 (pam. act of 1877), provides as follows:

Should the name of any person who has been duly registered according to the requirements of this act, not appear on the registration list of the election district in which he resides, he shall on offering to vote, at the voting place or precinct insuch election district, be required to state under oath that he is twenty-one years of age; that he has resided in the State of Florida one year, and in the county six months; that he was duly registered at least ten days before the election, and that he has not changed his place of residence to any district other than the one in which he was living when h registered, or if he has changed his place of residence since such registration, that he notified the clerk of the circuit court of the fact of such change in accordance with the requirements of the first section of this act. *He shall also* be required to produce two qualified *electors of the election district in which he offers to vote, who shall be personally known to at least two of the inspectors, and who shall each declare under oath that such person does lire in the election district in which he offers to vote, and has resided, to their knowledge, in Florida one year, and in the county six months, next preceding the election; whereupon the vote of such person shall be received.*

The Record, from p. 410 to p. 672, which is offered by contestant to establish this list of votes (as claimed by his brief from p. 37 to p. 41), does not show that they made this *preliminary* proof, as required by the above section of the law, nor that they offered to make such proof. In addition to this, contestee's counsel insists that the evidence of contestant referred to is that of unlettered and unreliable witnesses; conjectural and hearsay in its character, and not such evidence as should overcome the legal presumption that the election officers did their duty, especially when no fraud is charged or proven.

The Record, pp. 531 and 532, gives a list of such of contestant's witnesses, amounting to 97 of the 222 votes not cast, which he claims ought to be added to his vote in Marion County, the proof of whose illegal rejection depends entirely on *ex parte* affidavits, which affidavits will be found in the Record from p. 562 to p. 672. These affidavits are not competent evidence, and they do not show that these parties offered to make the oath required by the State of Florida (sec. 7 of the act of 1877), or that they were legal voters.

But whether these votes were rejected properly or improperly, it is

very plain that having been rejected, under the law they cannot be counted unless each voter has adduced in the contest the same proof in every respect which would have entitled him to vote at the polls on the day of election. What then would have been required of each one of these voters whose names did not appear on the registry list? The law says that each one "shall, on offering to vote at the voting place or precinct in such election precinct, be required to state under oath: (1) that he is twenty-one years of age; (2) that he has resided in the State of Florida one year, (3) and in the county six months; (4) that he was duly registered at least ten days before the election; (5) and that he has not changed his place of residence to any district other than the one in which he was living when registered, (6) or if he has changed his place of residence since such registration that he has notified the clerk of the circuit court of the fact of such change. These are six requirements which are necessary and indispensable to the legal qualification of any person whose name is not on the registration list. The testimony is not very clear what the rejected voters in this instance offered to do at the time they proposed to vote on the day of election. If they were ready and willing to swear to all these six matters, then they should have been allowed to vote. There is no doubt about this. But having been refused by the election board, although wrongfully, can they be counted now unless they have subsequently made the same proof during the contest and have it now before the committee? We think not. The proof which has been offered in all the various cases, does not in any case so far as we have been able to discover come up to the requirements of the law. These votes, therefore, although it is possible they may have been and are now legal votes, must be rejected. We cannot ignore any one of the muniments of the electoral privilege which should be guarded as well to keep out illegal votes as to insure the right to those who are entitled to vote under the law.

MARION COUNTY.

Moss Bluff poll.

Contestant claims that fraud was committed at this poll by counting votes for contestee which were not cast.

In Marion County reject return at Moss Bluff poll and deduct Finley's majority, 59.

To prove that contestee's name was not on the ballots reference is made to the testimony of William A. Meadows, United States supervisor. (Rec., pp. 513, 516; George Setters, Rec., pp. 516, 518; C. H. Heath, Rec., pp. 518, 519.)

The evidence of contestant to establish this fraud is not sufficient.

The testimony upon which contestant relies to reject this poll is that of William A. Meadows, a supervisor, George Sellers, an unlettered colored man, and Caleb H. Heath, a United States deputy marshal. (See Rec. from p. 513 to p. 519.)

None of them swear that there was a single Democratic ticket in the box which did not have contestant's name on it for Congress, when the act of Congress requires them to do so. (See secs. 2017, 2028, Rec.)

If these tickets, voted by the Democrats, did not have Finley's name on them for Congress, is it not strange that these partisan Republicans, the supervisor and deputy marshal, should stand there and not examine the tickets as they were being publicly canvassed by the inspectors?

Meadows, the supervisor, swears that he did not examine but one Democratic ticket, and that he does not know that it was voted. Sel-

lers swears, and so does Meadows, that the votes wei counted openly, honestly, and correctly. (See Rec., pp. 514 and 518.)

The contestant only proves that on a table near by there were a number of Democratic tickets which did not have Finley's name on them for Congress, but were blank for Congress. He does not prove that any of these tickets were voted. To suppose that all the Democratic tickets which were voted at the Moss Bluff poll did not have Finley's name on them for Congress, without proof of that fact, and that they were counted by the sworn officers of the election, as though his name was on them, would be to *suppose* or *infer* a crime on the part of these sworn officers *without proof*, and even without probability. This would be in gross violation of the principle of law which presumes that the officers performed their duty honestly and legally. The claim of the contestant to throw out all the returned vote for Finley from the "Moss Bluff" poll in Marion County, is too ridiculous to admit of argument.

McCrary says, in section 371, "when a vote has been admitted, something more is required than to throw doubt upon it." The evidence of contestant is not sufficient even to raise a doubt.

NASSAU COUNTY.

Section 108, Revised Statutes United States, provides as follows:

The party desiring to take a deposition under the provisions of this chapter shall give the opposite party notice in writing of the time and place of taking testimony, &c.

Section 125 of the Revised Statutes United States, provides that—

The notice to take depositions, with the proof or acknowledgment of the service thereof, and a copy of the subpœna, where any has been served, shall be attached to the depositions when completed.

We have carefully examined the record, and find no notices as required by the acts of Congress referred to. And their absence is not accounted for. (See record, from p. 798 to p. 817.)

None of the testimony from this county can therefore be considered, and the vote must stand as returned.

BRADFORD COUNTY.

The contestant asks that 87 votes be deducted from Finley's vote in this county, on the ground that the voters were not registered.

His notice of contest in this county is as follows:

BRADFORD COUNTY.

That in this county, at each poll in said county, five Republican voters offered to vote for me, whose votes were refused; that five Republican voters at each poll were prevented from voting for me by fraud, intimidation, violence, and threats of violence; that five persons voted for you who were non-residents, and five other persons voted for you at each poll who were minors, and five other persons voted for you at each poll who had been convicted of an infamous crime, and five other foreign-born persons voted for you at each poll without producing their naturalization papers. That at Starke poll, in said county, your political friends, by fraud, violence, intimidation, threats of violence, discharging fire-arms, and other acts of lawlessness and disorder, on and immediately preceding the day of election, overawed and terrorized Republican voters and intimidated them from coming to the polls, and thereby affected the result of the said election at said poll. I shall ask that the returns from this poll be rejected as evidence of the vote cast, and the elec ion be set aside.

From the above notice of contest, it will be seen that the ground *non-registration* is not embraced in his pleading. There is not even allusion to this ground. And this is the only ground with which cc testant undertakes to assail Bradford County.

Aside from the fact that the evidence relied on by contestant is whol inadequate (being altogether *inferential*), we cannot set the dangero precedent that a party to a contest can disregard his pleading a: prove that which he does not pretend to allege. Besides, the reco shows that there was no original testimony taken in this county, a: that the contestant took all his testimony in the ten days allowed f taking testimony in *rebuttal* when there was nothing to rebut.

The vote of Bradford County must unquestionably stand as returne

ORANGE COUNTY.

Mellanville poll.

The contestant claims that 33 Republican electors duly offered to vo and that their votes were illegally refused at this poll.

By examination of the record as to this county, from p. 748 to p. 7(we find that there is no notice to take testimony attached to the depo tions in accordance with the requirements of section 125 of the Revis Statutes of the United States. No evidence in this *county* can be co sidered.

The record also shows that none of the 33 voters who, it is claime were not allowed to vote because their names did not appear on tl registration-list, tendered the proof required by section 9 of the electi laws of Florida above quoted as to Marion County. And hence, not bei shown to be *legal* voters by the laws of Florida, they cannot be added contestant's vote.

ORANGE COUNTY.

Fort Christmas poll.

It is claimed that the whole vote of this poll should be rejected on tl ground that the precinct return does not show that it was signed by tl inspectors of this poll. There is no fraud alleged as to this omissio

The contestant makes the proof by the parol evidence of a single witne that the returns from this poll were included in the county canva This is not the best evidence, yet, if we take it as admissible evidenc the presumption of law is that the county canvassers properly and legal admitted the returns from this poll in the absence of proof to the co trary. The election laws of Florida require that the poll-list, the oat of the inspectors and clerk, and the registration-list of the precinct returned, as well as the certificate of the vote, by the precinct office From some or all of these papers it might well appear to the board county canvassers that the returns from any given precinct were a thentic.

It would be against the well-established law to reject this poll on th ground. Nothing can be more familiar than the rule laid down by M Crary, sections 87 and 91:

> It is well settled that the acts of public officers within the sphere of their duties m be presumed to be correct until the contrary is shown.

It is presumed that the county canvassing board properly canvass the vote of this county, there being no evidence to the contrary.

It is further claimed by the contestant that this poll ought to be rejected on the ground of intimidation and violence.

On p. 762 of the record will be found the evidence which contestant offers to sustain this charge.

There is not a scintilla of evidence in this to show that any voter was intimidated or interfered with, or hindered in any way. There is no evidence of any violence or disturbance at this poll.

It follows that Fort Christmas poll, in Orange County, should be counted as returned.

In addition to the above reasons for leaving Orange County stand as returned, we find from the record that all the evidence taken in this county by contestant was "*exparte*," and taken in the ten days when contestant is allowed by act of Congress to rebut. No original testimony had been taken in said county, and consequently there was nothing to rebut. For this reason also the returns from this county should stand undisturbed.

MADISON COUNTY.

We have already in the commencement of this report disposed of the two polls in this county which contestant in the first point made in his brief claims that the county canvassers of said county failed to include in their county return

The contestant, in his notice of contest (p. 1 of the record), charges as follows:

MADISON COUNTY.

In this county the gross fraud was committed by your political friends of stuffing the ballot-boxes with ballots containing your name for Representative to Congress, and drawing out from such boxes ballots containing my name for Representative to Congress, at each of the two polls in the town of Madison, and at each of the several polls in the said county known as Cherry Lake, Hamburg, Greenville, and the two polls at Mosely Hall, and at each of the other polls in said county, whereby I was cheated and swindled out of five hundred or more votes. I shall ask that the returns from each of said polls be rejected as evidence of the true vote cast, and that the votes actually cast for me be counted as cast. I shall ask that the county canvass be rejected.

2d. That at each of the several polls in the county of Madison ten Republican electors offered to vote for me whose votes were illegally refused; that at each of said polls five Republican electors were prevented from voting for me by fraud, violence, and intimidation; that five persons at each of said polls voted for you who were not qualified voters, because of non residence; that five other persons voted for you at each poll who were minors; and five other persons voted for you at each poll who had been convicted of an infamous crime.

We give below the argument of contestant, quoting from his brief from p. 70 to p. 77, in regard to this county, and after a careful examination of the record, we submit that his reasoning is *absurd* and *inconsistent*—that it is neither sustained by the law nor the evidence.

The contestant says in his brief (p. 70):

There were six (6) election districts in this county where Republicans had a majority. The names of these six polls are Madison polls Nos. 1 and 2, Greenville, Mosely Hall No. 4, Cherry Lake, and Hamburg.

Greenville poll.

At the first count of the ballots at this poll there were 39 ballots in excess of poll-list. These 39 being drawn out and destroyed, a second count showed 12 more ballots in excess of the poll-list, making 51 in all. There can be no reasonable ground to doubt that all of the 51 ballots drawn out of the box and destroyed were Republican ballots—thus reducing the Republican majority at this poll 102 votes.

The vote at this poll should be corrected by deducting the 51 in excess of the poll-list from contestee's vote and adding to contestant 51 votes. Also add as tendered and refused 8 votes. Vote returned from this poll was Finley, 168; Bisbee, 220. (Rec., p. 877.)

Madison poll, No. 1.

The excess of ballots over poll-list at this poll was 53, and the testimony establishes that 52 drawn out were Republican ballots. On the first count of ballots there were about 25 in excess, and on second count 53. This difference in the count was occasioned by the ballots falling apart or separating by handling, not only at this but at the other polls.

Vote at this poll should be corrected by deducting 52 ballots from Finley, and adding 52 to Bisbee. Also add one Republican vote, illegally rejected, to Bisbee. Vote returned was, Bisbee, 256; Finley, 256. (Rec., p. 869.)

Madison County poll, No. 2.

The excess of ballots over poll-list at this poll on first count was 14, which were drawn out and destroyed, and they were Republican ballots so destroyed. On second count there were 20 more, which were not drawn out, but were counted. This would reduce the Republican majority 48 at this poll. (Testimony of Dennis Eagan, Rec. p. —. Testimony of Davis for contestee, Rec. p. 101.)

Vote at this poll should be corrected by deducting 14 drawn out from Finley's vote. Also, by deducting 20 not drawn out from Finley's vote, and adding 14 drawn out to Bisbee's vote.

Vote returned was Bisbee, 302; Finley, 239. (Rec., p. 871.)

Cherry Lake poll.

At this poll on the first count there were 14 ballots in excess of the poll-list, and on the second count four more, making 18 in all. Of these drawn out 14 were Republican, according to the evidence. (Testimony of Green B. Hill, United States deputy marshal, Rec., pp. 912, 919. Testimony of Augustus Johnson, Rec., pp. 920, 924.)

The vote at this poll should therefore be corrected by deducting from Finley's vote the one (1) vote cast by a minor, and the 14 votes in excess of the poll-list, and by adding 14 votes in excess of the poll-list to Bisbee, and the two (2) votes tendered and refused, making a difference of 31 votes.

Vote returned, Bisbee, 172; Finley, 86. (Rec., p. 881.)

Mosely Hall poll, No. 4.

At this poll the excess was at least 14 ballots, of which 10, at least, drawn out, were Republican ballots, and not less than 13 Republican ballots tendered and refused. (Testimony of Watt S. Gheete, Rec., pp. 940–942.)

The vote of this poll should therefore be corrected by deducting 10 votes from Finley and adding 23 to Bisbee. Vote returned, Bisbee, 136; Finley, 90. (Rec., 876.)

The majority returned for Bisbee in the Mosely Hall territory at the two polls, in 1880, was less by 36 than in 1878, and it will be seen that the correction as given above of No. 4, makes a difference of 33 votes, or within 3 votes of the majority in 1878. This proves the great accuracy of the correction according to the evidence, compared with the vote of 1878.

Hamburg poll.

Contestant was unable to prove by witnesses the excess of ballots over the poll-list at this poll, and the specific numbers of votes lost by him by the same methods by which his vote was reduced at the other polls. But there is other evidence showing quite accurately the contestant's loss at this poll.

	Finley.	Bisbee.
The vote returned from this poll is	192	256
In 1878 the vote returned was	156	268

Bisbee's majority in 1880, 64. (Rec., p. 879.)

Bisbee's majority in 1878, 112.

Bisbee's majority in 1878, over that of 1880, 48, while the total votes was greater by 24.

It will be subsequently shown that it is proper to estimate the true vote at a given election by taking that of a prior election, at which no fraud was charged.

But there is other evidence. It is proven that on the poll-list of this poll there are the names of 278 known Republicans marked with an X. The total number on poll-list is 447, consequently there are on poll-list the names of 169 Democrats: 278 Republicans; 169 Democrats; 109 Republican majority instead of 64 majority returned, a difference in majority of 45, and 3 votes less than the majority in 1878.

Correcting the votes by the number of known Republicans on poll-list and giving to contestee all on poll-list not known to be Republicans (and it will be subsequently shown that such testimony is proper in the absence of better), we have its following result:

	Finley.	Bisbee.
Vote returned	192	256
Actual vote cast according to poll-list	169	278
Difference	23	22

The vote at this poll will therefore be corrected by deducting from Finley 23 votes and adding to Bisbee 22 votes.

Substantially the same result is obtained by taking the vote of 1878, or by distributing the twenty-four votes in excess of 1878, over that of 1880 in proportion to its vote of 1878.

Summarizing the differences in the vote of the six polls between the returns and as shown by the evidence, we have the following:

	Bisbee.		Finley.	
Greenville poll	add	59	deduct	51
Madison No. 1	"	53	"	52
Madison No. 2	"	14	"	34
Cherry Lake	"	16	"	15
Mosely Hall No 4	"	23	"	10
Hamburg	"	22	"	23
Total		187		185
Difference		372		
Add returned majority				109

Bisbee's actual majority 482 instead of 109, as returned.

The theory of contestant as to Madison County, when analyzed, amounts to this, viz: He claims that fraud has been proven against the above six polling places, and prays in his notice of contest as follows:

In this county the gross fraud was committed by your political friends, of stuffing the ballot-boxes with ballots, containing your name for Representative to Congress, at each of the two polls in the town of Madison, and at each of the several polls in the said county known as Cherry Lake, Hamburg. Greenville, and the two polls at Moseley Hall, and at each of the other polls in said county, whereby I was cheated and swindled out of five hundred and more votes. *I shall ask that the returns from each of said polls be rejected as evidence of the true vote cast. I shall ask that the county canvass be rejected as illegal and fraudulent.* (Rec., p. 1.)

It will be seen from this that contestant prays "*that the returns from each of said polls be rejected as evidence of the true vote cast.*" Yet in his *absurd* though *gain*ful *calculation*, he constructs his whole theory in regard to each of the considered polls in Madison County upon the *returns* which he prays to have rejected as evidence.

Suppose, for sake of argument, we grant his prayer, and reject the returns from each of these polls as evidence, on the ground that their credibility is destroyed by the proof of fraud. How, then, can either party claim any votes from any of these precincts, except by proof *aliunde* of the returns? And there is no such proof in the record.

The position is *unreasonable* and grossly and palpably in violation of the primary principles of law.

It is contended in behalf of contestant in regard to the Newnansville poll, in Alachua County, that the following language (quoted from McCrary) gives the true rule of law, viz:

It is very clear that if the returns are set aside no votes not otherwise proven can be counted.

This we admit is the true rule of law, and it is a gross inconsistency that would apply it to Alachua County and would wholly depart from it in Madison County and attempt to set up an entirely *new* lrue, for which there is not an authority or precedent in the books.

The only way known to the law of disposing of such a case is either to accept the returns, or to reject them "*in toto*," and put both parties

upon the proof of their respective vote "*aliunde.*" But the contestant seeks to establish an entirely new rule, unknown to the law.

The law cannot bend to suit the purposes of either party to the contest.

There is no principle of law more clearly established, says McCrary.

And the safe rule probably is, that when an election board are proved to have willfully and deliberately committed a fraud, even though it affect a number of votes too small to change the result, it is sufficient to destroy all confidence in their official acts, *and to put the party claiming anything* under the election conducted by them *to the proof of his votes by evidence other than the return.* (See McCrary on Elec., p. 174.)

McCrary, on p. 372, says:

If the fraud be clearly shown to exist to such an extent as to satisfy the mind that the return does not show the truth, and no evidence is furnished by either party to a contest, and no investigation of the committee to enable them to deduce the truth therefrom, then no alternative is left but to reject such a return.

To use it under such a state of facts is to use as true what is shown to be false. (See Washburn *vs.* Voorhies, 2 Bartlett, 54.)

This statement of the law is peculiarly applicable to all the precincts attacked in Madison County.

There are but two ways known to the law of disposing of Madison County—either to let the returns stand as officially made or to discredit them altogether. For if they are false they cannot be used for *any* purpose.

If they are false let us apply the above *unquestioned* rule of law to all of the six precincts attacked in Madison County, viz: Greenville, Madison poll No. 1, Madison poll No. 2, Cherry Lake poll, Mosely Hall poll, Hamburg poll. The returns from these respective polls give the following vote:

Greenville, Rec., 878: Bisbee, 220; Finley, 168; Bisbee's majority	52
Madison No. 1, Rec., p. 869: Bisbee, 256; Finley, 256; Bisbee's majority	
Madison No. 2, Rec., p. 871: Bisbee, 302; Finley, 239; Bisbee's majority	63
Cherry Lake, Rec., p. 881: Bisbee, 172; Finley, 86; Bisbee's majority	86
Mosel y Hall, Rec., 876: Bisbee, 136; Finley, 90; Bisbee's majority	46
Hamburg, Rec., 879: Bisbee, 256; Finley, 192; Bisbee's majority	64
Bisbee's total majority for above polls	311

The return from the whole county of Madison (see Rec., p. 1055) gives—

Finley, 1,055; Bisbee, 1,014; Finley's majority	41
If the above polls are rejected, add	311
Making Finley's majority for Madison County, instead of 41, as reported	352

No one can escape this conclusion.

But the so-called "*correction*" which contestant makes of the returns of the above several polls is very *remarkable*, and leads to a monstrous proposition of injustice to the contestee, doubling the vote of contestant by a strange process of *addition* and *subtraction.*

Let us take for example Greenville. Contestant claims that there were 51 ballots in the box in excess of the poll list as kept by the clerk (which the law says shall be destroyed unopened).

The proof is that these 51 ballots were destroyed and not counted for either candidate. This is sworn to by contestant's witness Stripling, on p. 944 of the Rec. Then, if these votes in excess, which the law of Florida commands to be destroyed and not counted, were destroyed in conformity to law, upon what ground can contestant claim that they should be deducted from Finley's vote, when they were never counted for Finley? And he makes this *strange* estimate as to all of the above poll-

ing places in Madison. Even if we should admit that, from the fact that there were a number of votes in the ballot-box at each of these polls in excess of the poll list, there was sufficient evidence to warrant the conclusion that these votes rightfully belonged to contestant, it would be clearly wrong to deduct them from Finley's vote when they had never been counted for Finley. Such a proposition could never be maintained for a moment. This observation is as applicable to all the above six polls in Madison County which contestant has assailed, as it is to the Greenville poll.

As Madison County can only be legally disposed of (as the case is made by the contestant) either by entirely throwing out and ignoring the six polls assailed, or by leaving them as returned, we do not deem it necessary to enter into a critical examination of the evidence in regard to the fraud charged and denied in this county. Suffice it to say that the record shows no proof of fraud made as to any of these polls, except as to Madison poll No. 1, where the vote as returned was a tie.

The testimony to refute the charge of fraud as to this poll is found in the record from page 1009 to 1036. But it can serve no useful purpose to discuss this question, as the vote from Madison County must either stand as returned or be rejected, and in consequence of their rejection 311 votes should be deducted from Bisbee's aggregate vote in the district, or added to Finley's aggregate majority in the district.

HAMILTON COUNTY.

The contestant claims as follows: (See his brief, pp. 102 and 106.)

HAMILTON COUNTY.

Poll No. 3.

We ask that the election at this poll be set aside entirely, on the ground of illegal and fraudulent conduct on the part of the election officer and the friends of contestee *It is proven that the polling place was a scene of disorder, drunkenness, and violence, continuing through the greater part of the day, and that the result of the election was affected thereby.*

In Hamilton County reject return at No. 3 poll, and deduct Finley's majority, no votes being allowed to either party, 68.

Below we append a copy of the notice of contest, and the copy of the answer of the returned member in reference to this county. The notice of contest is as follows:

HAMILTON COUNTY.

That in the county of Hamilton, at each poll of said county, ten Republican electors offered to vote for me, and were refused; that ten other Republican electors at each of said polls offered to vote for me and were prevented by personal violence and intimidation; and I shall ask that such votes be counted for me as if cast.

That at each of the polls in said county, ten persons voted for you who were not legally registered voters; that ten persons voted for you at each of said polls who were non-residents; that five persons voted for you at each of said polls who were minors; that five persons voted for you at each of said polls who were convicted of infamous crimes; that five other persons voted for you at each poll, who were of foreign birth, without exhibiting their naturalization papers.

That at poll No. 3, in the county of Hamilton, your political friends sold, and caused to be sold, intoxicating liquors to the electors, whereby many of the electors became intoxicated and riotous and disorderly, and compelled electors, in a state of intoxication, to vote for you who otherwise would have voted for me. That the authority of the United States supervisors and deputy marshals were defied and ignored by the inspectors; that the inspectors of election acquiesced in and consented to scenes of lawlessness and disorder, and knowingly allowed persons to vote for you who were

not qualified voters, and refused to receive the votes of those who offered to vote for me and were qualified electors, whereby the result of the election was effected.

Your political friends at this poll purchased and influenced electors to vote for you by means of bribery, promise of money, and other articles of value, at the said district No. 3, who otherwise would have voted for me; and I shall ask that the return from this district be rejected, as evidence of the vote cast, and that the election at this poll be entirely set aside.

The answer is as follows:

HAMILTON COUNTY.

The contestee denies that at any of the polling-places within said county of Hamilton, at said election, any qualified electors who offered to vote for contestant, were illegally refused the right to vote according their choice, or that at any polling-place in said county of Hamilton, any qualified electors were prevented from voting for contestant by fraud, violence, or intimidation, or that at any polling-place within said county of Hamilton, any votes were cast and counted for contestee, of persons disqualified by non-registration and who did not comply with the registration, and other laws as the law allows; or that any votes were cast and counted at any of said polls in said county of Hamilton for contestee, of persons under the age of twenty-one years, or of persons who were not resident, as the laws require; or of persons who were convicted of crime; or of persons who were foreign born, who were not qualified to vote.

And the contestee answering as to poll number three (3) in said county of Hamilton, denies the allegations in the notice of contest in respect to said poll, and each of them; and especially denies each charge of improper and illegal conduct on the part of the inspectors at said poll, and denies that said inspectors, knowingly contrived, counseled, or connived at, the violation of law, by the use of intoxicating liquors or otherwise; or willingly acquiesced in scenes of violence and lawlessness, to defeat the fair election at said poll or knowingly allowed persons to vote for contestee who were disqualified by law to vote; or that the political friends of contestee improperly, corruptly, and illegally, by bribery or other illegal and corrupt means, induced electors to vote for contestee, who otherwise would have voted for contestant at said poll; and denies that the result of said election was changed by reason of any of the matters alleged by contestant, at said poll No. 3, Hamilton County, at said election.

We quote the entire pleading of both contestant and contestee, as to this county, so as to present the issue squarely.

In the Record (p. 1183 to p. 1195) will be found the evidence in regard to this county.

It will be seen that it is all contestant's testimony, taken in rebuttal when there had been no original testimony taken in this county, and *nothing to rebut;* that contestee has had no chance to controvert it.

What is the issue presented by the pleading as to this poll? To eliminate the material allegations in the notice of contest, they are as follows, viz:

1st. That contestee's political friends sold, and caused to be sold, intoxicating liquors to the electors, whereby many of the electors become intoxicated and riotous and disorderly, and compelled electors, in a state of intoxication, to vote for contestee who otherwise would have voted for contestant.

This allegation is denied by the answer. Is it sustained by the evidence?

The whole of the testimony shows only one voter who was led up to the poll, and there is no evidence, not a *scintilla*, that he was compelled to vote against his will, and not a particle of competent evidence that he voted for the contestee.

The next averment is:

That the *authority* of the United States supervisors and deputy marshals was defied and ignored by the inspectors.

What was the *legal authority* of United States supervisors and deputy marshals at a country polling place like this? Let us see. Section

2029 of the Revised Statutes of the United States provides as follows:

The supervisors of election appointed for any county or parish in any Congressional district, at the instance of ten citizens, as provided in section two thousand and eleven, shall have no authority to make arrests, or to perform other duties than to be in the immediate presence of the officers holding the election, and to witness their proceedings, including the counting of the votes and the making of a return thereof.

The act of Congress defines and limits the authority to the passive duty of watching and scrutinizing the conduct of the election, and of reporting any violation of the election laws.

As to *deputy marshals*, the law does not authorize or warrant the appointment of any deputy marshal, at any election, except in a city or town of 20,000 inhabitants or upward. (See sec. 2021, Rev. Stat. U. S.)

What authority of the United States supervisor and deputy marshal was defied? What does the evidence of contestant show? On p. 1184 of the Record the witness for contestant, Ruckley, testified that a row ensued in consequence of some Democrat leading a drunken negro to the poll; and that these doughty officers, the supervisor and deputy marshal, were engaged in the row, *and actually commenced it.* (See Rec., p. 1190.) On p. 1186 of the testimony of same witness is the evidence upon which contestant bases the charge concerning the inspectors ignoring and defying the authority of the deputy marshal and supervisor. We give it literally as follows:

Q. Did or not the inspectors apparently acquiesce in the violent conduct of the voters around the polls?—A. I heard nothing for or against it, more than one of the supervisors ordered the polls closed during the row.

Q. Did the inspectors pay any regard to the order of the supervisor?—A. None whatever that I could see.

This is the head and front of the offending on the part of the inspectors of the election, who by the laws of the State are intrusted with the management of the election themselves. They did not close the poll and stop the election at the command of a supervisor who had no such authority vested in him by act of Congress.

The next charge in the notice of contest is as follows:

That the inspectors acquiesced in and consented to scenes of lawlessness and disorder, and knowingly allowed persons to vote for you who were not qualified voters, and refused to receive the votes of those who offered to vote for me and were qualified electors, whereby the result of the election was affected.

Where is the evidence "that the inspectors acquiesced in and consented to scenes of violence"?

Rackley, on p. 1186 testifies as follows:

Q. Did the inspectors make any effort to quell the disturbance and disorder, and maintain peace and quiet about the polls?—A. None that I saw or heard.

Q. Would you not have seen it if they had done so?—A. I should think I could, as I was within 10 or 15 feet of the polls.

Q. Did or did not the inspectors apparently acquiesce in the violent conduct around the polls?—A. I heard nothing for or against it; more than one of the supervisors ordered the polls closed during the row.

Again, the deputy marshal, who, together with the supervisor, commenced the row (according to his own testimony, see record, p. 1190), says on page 1192:

Q. Did the inspectors make any efforts to suppress the violence and turbulence around the polls?—A. Not that I saw or heard, and I was near the polls all day.

We quote from the record the description of this *lilliputian* row, in which this Ajax deputy marshal was engaged, according to his own testimony, on page 1190 of the record. Here is the description he gives of the great row:

Q. How long did the row continue, and describe it?—A. Somewhere about 30 min-

of the contestant as a true statement of the case, what is the law applicable thereto?

An authority immediately to the point, and from the State of Florida, and between the same parties as the present case, is found in the case of Finley *vs.* Bisbee in the Forty-fifth Congress, wherein the majority of the Committee on Elections held:

If a person votes at an election his vote is presumed under the law to be legal until the contrary be proven in a legal way, for the reasons, first, that the acts of an officer or officers of an election within the scope of their authority are presumed to be correct and honest until the contrary is made to appear, and, therefore, that they as such officers would not receive an illegal vote; second, that the presumption is always against the commission of a fraudulent or illegal act, and, therefore, that a man would not cast an illegal vote.

This case, which rules the one in hand, was affirmed by a large majority as the law by which Congress will be bound in such cases in the contest of Curtin *vs.* Yocum in the Forty-sixth Congress.

The report of Mr. Calkins, in Curtin *vs.* Yocum, holds:

It is the duty of the election officers to comply with this law. It is imperative on them, and if they fail they subject themselves to the penalties provided in sec. 12 of the registry law. But to allow a non-registered voter to vote without requiring him to comply with the law, if he is otherwise qualified, is quite a different question. If he refuses to comply on being requested, then it is clearly the duty of the officers to refuse his vote because he refuses to obey a reasonable regulation prescribed by the legislature, and he hurts no one but himself. *But if he is allowed to vote without being required to file the affidavits and is otherwise qualified his vote is not an illegal one.* The officers of election have simply failed to take and preserve the evidence which the law requires of them, but the failure on their part to take and preserve this evidence does not reach the qualification of the voter.

The report further holds:

That the clause "no voter shall be deprived of the privilege of voting by reason of his name not being registered" protects all legal voters in the right of suffrage, and the inference to our mind is irresistible under this decision that he is not even *prime facie* an illegal voter because of non-registration. (See McCrary, sec. 423.)

That case was also largely ruled by the decision of Judge Briggs, in the case of Gillin *vs.* Armstrong (Leg. Int., July 19, 1878), which holds:

That unregistered voters having voted without making the affidavits, the law presumes that they are legal, and it cannot be permitted to show that they were not so legal.

The case of Curtin *vs.* Yocum, which is not reported yet, we quote fully on this point. It was tried on the sole issue that an unregistered vote was an illegal one. The present able chairman of the Election Committee (Mr. Calkins), who made the report of the minority in that case, which was adopted by the House, and thereby became the law of Congress on the subject, said in his closing argument:

All other grounds were abandoned; the majority report is bottomed upon that single proposition of law, that any person voting whose name does not appear on the registry list is an illegal voter.

This case showed that there were (1) between one and two thousand persons who voted at the election who were not registered; (2) that there were three hundred and eighty persons voted who were not registered and who were shown by affirmative testimony not to have made the proof required of non-registered voters to entitle them to vote; and (3) that there were ninety persons who voted for the contestee, more than his majority, who were not registered and made no proof required of non-registered voters. The issue was therefore plainly and fairly made. Mr. Calkins in his argument said:

I call the attention of the members of the House especially to the conclusion reached by Judge Briggs in construing this law. He says: "By accepting the vote," referring to the non-registered voter who presents himself at the polls without an affi-

davit, &c. "By accepting the vote without demanding the proof they deprive the voter of the opportunity of furnishing it." To construe the law as contended for by my friend from Pennsylvania (Mr. Beltzhoover), makes it a mere trap for the reason that the voter presumes, or he has a right to presume, that he is registered. He has lived in the precinct the time required by law; he has paid his tax; the assessor has been to his house; he knows his name ought to be on the registry list, and he goes up to the ballot-box with the ballot in his hand. They take his ballot and deposit it in the ballot-box, and afterward, when he cannot furnish the proof, it is contended his vote is an illegal one, while if the election officers had called his attention to it at the moment he could have supplied the evidence required and established his right to vote to the mode prescribed. But that evidence was not demanded. He voted knowing that he had a legal right to vote, but the legal evidence of his right was not required of him by the election officers. And applying the same doctrine as in Wheelock's case, "you cannot deprive the legal voter of the right to vote *by reason of the failure of the officer to do his duty," and it seems to me that the position is unassailable.*

The next position I assume is that a vote having been deposited in the ballot-box unchallenged is presumed to be a legal vote until the contrary is shown; and I call attention to the case of Perry *vs.* Ryan, 68 Illinois, 172. "Where a person votes at an election without having been registered and without any proof of right, if it does not appear he was challenged or any objection made to his vote, the presumption must be that he was a legal voter and was known to the judges of election." In 83 Illinois, 498, where a registry law very similar to the law now under consideration was construed by that court, it was held, "The presumption of the legality of a vote in no way depends upon the omission to challenge or object to it, or any presumed knowledge of the judges of election, but it arises from the fact of its having been deposited in the ballot-box. When once deposited it will be presumed to be a legal vote until there is evidence to the contrary."

The same doctrine was held in the case of Finley *vs.* Bisbee in this House in the last Congress. It is said by the chairman of my committee that the provisions of the law of Florida and the law of Pennsylvania are different, and therefore a different rule prevails. If they are materially different, Mr. Speaker, I admit it, but they are not materially different, because in the Bisbee-Finley case the committee held one provision of the constitution, which was mandatory in its language, to be directory merely. The language was that certain persons offering to vote shall "present to the officers certain naturalization papers at the time they offered to vote. That was a part of the constitution of Florida, and yet the Committee on Elections in construing it said the clause was not mandatory, although it was a part of the organic law of Florida, but was directory merely. Let me quote a sentence from that report, which I believe was written by Judge Cobb. He says: "It is the settled law of election cases that where persons vote without challenge it will be presumed that they were entitled to vote, and that the sworn officers of the election who received their votes performed their duty properly and honestly, and the burden of proof to show the contrary devolves upon the party denying their right." Mark, Mr. Speaker, "the settled law of all election cases" is the language, and this House solemnly sitting as a court adjudged that to be the law. And yet in this case the majority of the committee say that every vote that went into the ballot-boxes unchallenged in Pennsylvania, which were unregistered, are presumed to be illegal. I admit that the courts of Wisconsin, in two cases, have held their law mandatory in construing a similar provision. I also take occasion to state that Judge Dixon, one of the ablest judges that ever sat on the supreme bench of that or any other State, apologizes for having so held.

Mr. Stevenson, who also sustained the minority report in the Curtin *vs.* Yocum case, and argued it at length, rested the case on "the pivotal point" of the status of an unregistered voter, who has been permitted to cast his ballot without making the proof required by law. He says:

The law presumes the officers conducting the election to have discharged their duty; presumes they have received the votes of none other than legally qualified voters. This presumption can only be rebutted by evidence.

He then goes on to cite very fully the decision made by Congress in the Finley *vs.* Bisbee case in the Forty-fifth Congress, and gives the strongest extracts from the report of the committee. He also cites Wheelock's case, 1 Norris, 297, and the case of Gillon *v.* Armstrong, and resting his case on these authorities, concludes:

I think I have shown, Mr. Speaker, by recognized authorities, first, that the elector cannot be deprived of the right of suffrage by the ignorance or misfeasance of the election officials; second, that under the constitution of Pennsylania he cannot be de-

barred from voting by reason of non-registration; third, that the officers conducting the election are presumed to have done their duty, and received only legal votes; fourth, the burden of proof is on the party assailing their legality.

TESTIMONY WHICH SHOULD BE EXCLUDED.

The record shows that all the evidence taken in the counties mentioned below by contestant was taken as *rebutting* testimony, after the expiration of the time allowed by law for taking original testimony; that neither contestant nor contestee had taken any testimony in any of these counties during the forty days allowed to each, and that consequently there was *nothing to rebut;* that the contestant disregarded the act of Congress, which says that "the contestant shall take testimony during the first forty days, the returned member during the succeeding forty days, and the contestant may take testimony in *rebuttal only* during the remaining ten days of said period" (of ninety days).

The following are the counties where contestant took such original testimony in the ten days allowed him for rebutting testimony only, and where contestee had taken no testimony; and where there could not therefore possibly have been *anything to rebut*, viz: Brevard, Bradford, Columbia, Hamilton, Putnam, Orange, St. John's, Suwannee, and Volusia counties.

The record shows that no evidence-in-chief was taken in or concerning the election in any of these counties, and none whatever by the contestee during his forty days, and that all of contestant's testimony therein was taken after contestee's time had elapsed, and after the contestant's time for rebuttal had commenced. See Vallandigham *vs.* Campbell (1st Bartlett, p. 223); Brooks *vs.* Davis (1st Bartlett, 244; McCrary on Elec., secs. 347, 348); Bromberg *vs.* Haralson (first session Forty-fourth Congress, vol. 5, Index to Miscellaneous Documents Digest of Election Cases), p. 364.

It is claimed that all this testimony should be rejected.

Against all the evidence taken by the contestant in the above-mentioned counties the *unanimous* report of the Committee on Elections in case of Bromberg *vs.* Haralson, first session Forty-fourth Congress, is cited. It appeared, in that case, that in Wilcox County the contestant, Bromberg, the Democratic candidate, undertook to violate the election law, just as the contestant in this case has done, and that his testimony so taken was rejected. See Bromberg *vs.* Haralson, *supra.*

All the testimony in the above counties is *ex parte* in behalf of contestant. The notices served by contestant on contestee for taking this testimony in all those counties informed contestee that contestant would proceed to take testimony in rebuttal. The contestee, knowing that no original testimony had been taken in any of these counties, and that there could be nothing to rebut, declined to attend such examinations of witnesses. The contestant, instead of taking rebutting testimony, proceeded to take *original* testimony.

The contestant also contends that his leading attorney was sick, and that he (contestant) was absent in Washington attending to his duties as a member of Congress, and that this is a sufficient excuse for not taking testimony in the time and manner allowed by law.

The record shows that the answer of the returned member was served on the 3d of February, 1881, and upon that day contestant's forty days for taking testimony commenced. The contestant contends that on account of the trouble which occurred in Madison County on the 8th of February, his leading attorney, H. Jenkins became sick. The following extract from the certificate of the officer before whom his evidence

was taken, p. 885 of the record, shows that on the 18th of February his attorney, Jenkins, was attending to his case. See record, 885, as follows:

HORATIO BISBEE, JR., *vs.* JESSE J. FINLEY.	Contested election, Forty-seventh Congress of the United States.

In pursuance of notice of contestant, in the above-entitled cause, to contestee, of taking testimony, a copy of which notice is hereunto attached, filed by contestant, I have this day begun the examination of witnesses on behalf of contestant, H. Bisbee, jr., at my office in Jacksonville, Duvall County, Florida, this 18th day of February, 1881; H. Jenkins, jr, attorney for contestant, and S. J. Finley, attorney for contestee, being present.

J. C. MARCY, JR.,
Notary Public.

On page 67 of the record the following certificate of Watson Porter, the officer who took contestant's testimony in Alachua County, shows that contestant appeared there by another attorney, and that he did not commence taking his testimony there until the 7th of March.

ALACHUA COUNTY.

Pursuant to notice of contestant in this case, I, Watson Porter, notary public for the State of Florida at large, sat in my office in the town of Gainesville, Fla., Alachua County, on Monday the 7th day of March, A. D. 1881, at 9 o'clock a. m., for the purpose of examining witnesses and taking evidence on behalf of the contestant; W. T. Pierson and F. E. Hughes appearing as counsel for the contestant, and no one appearing for the contestee.

Counsel for contestant offers to be filed a copy of the notice of taking testimony with a list of witnesses for district No. 12, which is filed and marked Exhibit A.

Counsel for contestant also offers to be filed a copy of notice of contest in this case, which is filed and marked Exhibit B.

Contestant's counsel also offers a copy of the answer of contestee, which is filed and marked Exhibit C.

Counsel for contestant files in evidence a certified copy of the poll-list for Arredonda district No. 12, Alachua County, filed and marked Exhibit D.

At 9.30 a. m. T. F. King appeared as counsel for contestee.

The record shows that contestant's forty days were not diligently occupied, but frittered away; so that there is no excuse for asking any further indulgence to contestant. The contestant says in his brief (p. 2), that most of the frauds were charged to have been committed at less than a dozen polls.

Sec. 109, Rev. Stat., provides—

That testimony in contested election cases may be taken at two or more places at the same time.

And in section 110, Rev. Stat., so numerous a class of officers are authorized to take testimony, that in every county there is no difficulty in finding officers qualified to take such testimony.

Mr. McCrary, sec. 348, says:

The statute as it now stands (see Sec. 108 Rev. Stat. U. S.) affords an opportunity for investigation, so ample and complete that it is believed that it will seldom happen that the House will find it necessary to depart from its provision in order to do the most complete and perfect justice, and it will no doubt be adhered to as furnishing the best possible guide for instituting and carrying forward inquiries of this character.

We have considered almost all the testimony thus irregularly and illegally taken, but we earnestly protest against the admission of such evidence unless great injustice would be done by rejecting it. We prefer to adhere to the law. The above-mentioned counties should stand as

as returned, however, both from the fact that all the testimony taken by contestant to assail them is unwarranted, and because the testimony itself, as shown by the record, is insufficient to warrant the committee in rejecting the official returns and thereby disfranchising hundreds of legal voters.

CONCLUSION.

We believe from the evidence, and under the law applicable to the case, that Alachua, Madison, and Marion counties should stand as returned.

The returns from the whole district give—

Finley, 13,105 votes; Bisbee, 11,953 votes; Finley's majority, 1,152.

If the six polls, where fraud is charged in Madison County, should be rejected, 311 votes (Bisbee's majority in them) should be added to Finley's returned majority of the whole district; thus, 1,152+311, which would give Finley's majority for the whole district 1,463 votes.

But if we give the contestant the benefit of the most extreme liberality, and allow him all votes to which he could in any way be entitled, the summary would be as follows, viz:

Finley's official vote		13,430
Bisbee's official vote	12,427	
Add from Alachua	88	
Add from Marion	122	
Add from Nashua	2	
Add from Madison	328	
Add from Orange	33	
		13,000
Finley's majority		430
From this may be deducted all other votes which there is any proof to show were disallowed		114
Leaving Finley's majority		316

Thus the most favorable showing which could in any way be obtained would leave the contestant still over 300 votes short of an election.

We therefore recommend the adoption of the following resolutions:

1st. *Resolved*, That Horatio Bisbee, jr., was not elected as a Representative to the Forty-seventh Congress of the United States from the second Congressional district of Florida, and is not entitled to occupy a seat in this House as such.

2d. *Resolved*, That Jesse J. Finley was duly elected as a Representative from the second Congressional district of Florida to the Forty-seventh Congress of the United States, and is entitled to retain his seat as such.

F. E. BELTZHOOVER.
L. H. DAVIS.
S. W. MOULTON.
G. ATHERTON.

I concur in the conclusion that Finley's actual majority, as stated in the summary, is 316.

G. W. JONES.

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1067.

CLAIMS OF AMERICAN CITIZENS FOR SPOLIATIONS BY THE FRENCH PRIOR TO JULY 1, 1801.

APRIL 18, 1882.—Referred to the House Calendar and ordered to be printed.

Mr. WALKER, from the Committee on Foreign Affairs, submitted the following

REPORT:

[To accompany bill H. R. 5885.]

The Committee on Foreign Affairs, to whom was referred bill (H. R. 122) "To provide for ascertaining and settling the claims of American citizens for spoliations by the French prior to July 31, 1801," respectfully submit the following report:

These claims are for depredations on American commerce; the seizure, condemnation, and confiscation by the French of vessels belonging to citizens of the United States, covering a period from 1792 to July 31, 1801. In an exhaustive report presented in the Senate at the second session of the Forty-first Congress by Mr. Sumner, they are thus characterized, "* * * other claims have been merely personal or litigious, these are historical; and to comprehend them we must know, first, how independence was won, and, secondly, how at a later date peace was assured. First in time they are also first in character; for they sprang from the very cradle of the Republic in the time of its infancy."

Since the year 1800, and immediately after the final ratification of the convention of September 30th of that year between France and the United States, these claims have been constantly urged before Congress, and their consideration has claimed the studious investigation of many of the most distinguished statesmen and lawyers who have participated in national affairs. Twenty-four reports have been made to the Senate, of which only one was adverse. Nineteen reports have been made to the House, of which only two were adverse. Thirty-eight of these reports have been in favor of the payment of the claims. The Senate has passed six bills in favor thereof, and the House passed two of these six bills. President Polk vetoed one and President Pierce the other. In the light of what has already been done, it would seem a work of supererogation, the performance of more than either duty or necessity requires, for your committee to attempt to add thereto. Mr. Chambers, in his report to the Senate on the 24th of May, 1828, expressed himself as follows:

> The character and condition of the claims, after so many years, will necessarily require the agency of a commission to arrange and establish their validity and amount, and to apportion their distribution.

The creation of a commission to hear and determine these claims, and the limitation of the awards to be made by said commission to an amount not exceeding five millions of dollars, seems to have been the only course heretofore recommended to provide for ascertaining and settling the same. The present bill (H. R. 122) before your committee, being a *verbatim* copy of that presented in the Senate by Mr. Choate on the 28th of January, 1842, has also this object in view.

It cannot be denied that Congress has, through the long series of reports presented to both houses, and the thorough discussions had on them by many of the brightest intellects of the country, favored an adjustment of these claims. It would seem to be equally conclusive that the real merits thereof cannot now be ascertained by the method heretofore recommended and again contemplated by the bill referred to your committee.

By the substitute herewith submitted the whole subject is relegated to the Court of Claims, which is authorized and empowered to hear and determine, within two years from the passage of the act, the validity and amount of all claims for spoliations committed by the French prior to 1801, and that when all such claims shall have been heard, the said court shall report the facts and its conclusions thereon to Congress for its final action.

Your committee report back bill H. R. 122, and recommend the passage of the following substitute therefor:

A BILL to provide for the ascertainment of claims of American citizens for spoliations committed by the French prior to the thirty-first day of July, eighteen hundred and one.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That such citizens of the United States, or their legal representatives, as had valid claims to indemnity upon the French Government arising out of illegal captures, detentions, seizures, condemnations, and confiscations prior to the ratification of the convention between the United States and the French Republic concluded on the thirtieth day of September, eighteen hundred, the ratifications of which were exchanged on the thirty-first day of July following, may apply by petition to the Court of Claims within two years from the passage of this act, as hereinafter provided: *Provided*, That the provisions of this act shall not extend to such claims as were embraced in the convention between the United States and the French Republic concluded on the thirtieth day of April, eighteen hundred and three; nor to such claims as were allowed and paid, in whole or in part, under the provisions of the treaty between the United States and Spain concluded on the twenty-second day of February, eighteen hundred and nineteen; nor to such claims as were allowed, in whole or in part, under the provisions of the treaty between the United States and France concluded on the fourth day of July, eighteen hundred and thirty-one.

SEC. 2. That the court is hereby authorized to make all needful rules and regulations, not contravening the laws of the land or the provisions of this act, for executing the provisions hereof, and shall examine and determine the validity and amount of all the claims included within the description above mentioned.

SEC. 3. That the court shall cause notice of all petitions presented under this act to be served on the Attorney-General of the United States, who shall be authorized, by himself or his assistant, to examine witnesses, to cause testimony to be taken, to have access to all testimony taken under this act, and to be heard by the court. He shall resist all claims presented under this act so far as the interests of the United States shall require.

SEC. 4. That it shall be the duty of the Secretary of State to procure, as soon as possible after the passage of this act, through the American minister at Paris, or otherwise, all such evidence and documents relating to the claims above mentioned as can be obtained from abroad; which, together with the like evidence and documents on file in the Department of State, or which may be filed in the department, may be used before the court by the claimants interested therein, but the same shall not be removed from the files of the court; and after the hearings are closed, the record of the proceedings of the court and the documents produced before them shall be deposited in the Department of State.

SEC. 5. That when all such claims shall have been heard, the court shall report the facts and its conclusions thereon to Congress, for its final action. Such presentation of any claim to the court shall be taken to be a release of the United States from all liability for any further amount than shall be finall allowed by the court; and all claims not finally presented to said court within the period of two years limited by this act shall be forever barred.

In order to enable the House to fully understand this voluminous question, a tabulated list of reports and the authors thereof is appended hereto, as also Senate Report No. 10, Forty-first Congress, second session, made by Mr. Sumner, and the veto messages of Presidents Polk and Pierce. The statement made before your committee, on the 17th day of March, 1882, by Mr. William Gray, is also appended.

APPENDIX.

EXHIBIT A.

A MESSAGE OF JAMES K. POLK, PRESIDENT OF THE UNITED STATES, RETURNING BILL, UNDER DATE OF AUGUST 8TH, 1846, FIRST SESSION 29TH CONGRESS, "AN ACT TO PROVIDE FOR THE ASCERTAINMENT AND SATISFACTION OF CLAIMS OF AMERICAN CITIZENS FOR SPOLIATION COMMITTED BY THE FRENCH, &c.," WITH HIS OBJECTIONS THERETO, AS FOLLOWS:

To the Senate of the United States:

I return to the Senate, in which it originated, a bill entitled "An act to provide for the ascertainment and satisfaction of claims of American citizens for spoliations committed by the French prior to the 31st day of July, one thousand eight hundred and one," which was presented to me on the 6th instant, with my objections to its becoming a law.

In attempting to give the bill the careful examination it requires, difficulties presented themselves in the outset from the remoteness of the period to which the claims belong, the complicated nature of the transactions in which they originated, and the protracted negotiations to which they had led between France and the United States.

The short time intervening between the passage of the bill by Congress and the approaching close of their session, as well as the pressure of other official duties, have not permitted me to extend my examination of the subject into its minute details. But in the consideration which I have been able to give to it, I find objections of a grave character to its provisions. For the satisfaction of the claims provided for by the bill, it is proposed to appropriate five millions of dollars. I can perceive no legal or equitable ground upon which this large appropriation can rest. A portion of the claims have been more than half a century before the government, in its executive or legislative departments, and all of them had their origin in events which occurred prior to the year 1800. Since 1802 they have been from time to time before Congress. No greater necessity or propriety exists for providing for these claims at this time than has existed for near half a century, during all of which period this questionable measure has never until now received the favorable considera ion of Congress. It is scarcely probable, if the claim had been regarded as obligatory upon the government, or constituting an equitable demand upon the Treasury, that those who were contemporaneous with the events which gave rise to it should not long since have done justice to the claimants. The Treasury has often been in a condition to enable the government to do so without inconvenience, if these claims had been considered just. Mr. Jefferson, who was fully cognizant of the early dissensions between the governments of the United States and France, out of which the claims arose, in his annual message in 1808 adverted to the large surplus then in the Treasury, and its "probable accumulation," and inquired whether it should "lie unproductive in the public vaults," and yet these claims, though then before Congress, were not recognized or paid. Since that time the public debt of the Revolution and of the war of 1812 has been extinguished, and at several periods since, the Treasury has been in possession of large surpluses over the demands upon it. In 1836 the surplus amounted to many millions of dollars, and for want of proper objects to which to apply it, it was directed by Congress to be deposited with the States.

During this extended course of time, embracing periods eminently favorable for satisfying all just demands upon the government, the claims embraced in this bill met with no favor in Congress beyond reports of committees in one or the other branch. These circumstances alone are calculated to raise strong doubts in respect to these claims; more especially as all the information necessary to a correct judgment concerning them has been long before the public. These doubts are strengthened in my mind by the examination I have been enabled to give the transactions in which they originated.

The bill assumes that the United States have become liable, in these ancient transactions, to make reparation to the claimants for injuries committed by France. Nothing was obtained for the claimants by negotiation; and the bill assumes that the government has become responsible to them for the aggressions of France. I have not

been able to satisfy myself of the correctness of this assumption, or that the government has become in any way responsible for these claims. The limited time allotted me before your adjournment precludes the possibility of reiterating the facts and arguments by which, in preceding Congresses, these claims have been successfully resisted.

The present is a period peculiarly unfavorable for the satisfaction of claims of so large an amount, and, to say the least of them, of so doubtful a character. There is no surplus in the Treasury. A public debt of several millions of dollars has been created within the last few years. We are engaged in a foreign war, uncertain in its duration and involving heavy expenditures, to prosecute which Congress has at its present session authorized a further loan; so that in effect the government, should this bill become a law, borrows money and increases the public debt to pay these claims.

It is true, that by the provisions of the bill payment is directed to be made in land-scrip instead of money; but the effect upon the Treasury will be the same. The public lands constitute one of the sources of public revenue; and if these claims be paid in land-scrip, it will from the date of its issue, to a great extent, cut off from the Treasury the annual income from the sales of the public lands, because payments for lands sold by the government may be expected to be made in scrip until it is all redeemed. If these claims be just, they ought to be paid in money, and not in anything less valuable. The bill provides that they shall be paid in land scrip, whereby they are made in effect to be a mortgage upon the public lands in the new States; a mortgage, too, held in great part, if not wholly, by non-residents of the States in which the lands lie, who may secure these lands to the amount of several millions of acres, and then demand for them exorbitant prices from the citizens of the States who may desire to purchase them for settlement; or, they may keep them out of the market, and thus retard the prosperity and growth of the States in which they are situated. Why this unusual mode of satisfying demands on the Treasury has been resorted to, does not appear. It is not consistent with sound public policy. If it be done in this case, it may be done in all others. It would form a precedent for the satisfaction of all other State and questionable claims in the same manner, and would undoubtedly be resorted to by all claimants who, after successive trials, shall fail to have their claims recognized and paid in money by Congress.

This bill proposes to appropriate five millions of dollars to be paid in land scrip, and provides that "no claim or memorial shall be received by the commissioners" authorized by the act, "unless accompanied by a release or discharge of the United States from all other and further compensation than the claimants may be entitled to receive under the provisions of this act." These claims are estimated to amount to a much larger sum than five millions of dollars, and yet the claimant is required to release to the government all other compensation, and to accept his share of a fund which is known to be inadequate. If the claims be well founded, it would be unjust to the claimants to repudiate any portion of them, and the payment of the remaining sum could not be hereafter resisted. This bill proposes to pay these claims, not in the currency known to the Constitution, and not to their full amount.

Passed as this bill has been near the close of the session, and when money measures of importance necessarily claim the attention of Congress, and possibly without that full and deliberate consideration which the large sum it appropriates and the existing condition of the Treasury and of the country demand, I deem it to be my duty to withhold my approval, that it may hereafter undergo the revision of Congress. I have come to this conclusion with regret. In interposing my objections to its becoming a law, I am fully sensible that it should be an extreme case which would make it the duty of the Executive to withhold his approval of any bill passed by Congress upon the ground of its inexpediency alone. Such a case I consider this to be.

JAMES K. POLK.

WASHINGTON, *August* 8, 1846.

EXHIBIT B.

[House Journal, second session Thirty-third Congress, pp. 397–411.]

A MESSAGE OF PRESIDENT FRANKLIN PIERCE, RETURNING, ON FEBRUARY 17, 1855, H. R. 117, ENTITLED "AN ACT TO PROVIDE FOR THE ASCERTAINMENT AND SATISFACTION OF CLAIMS OF AMERICAN CITIZENS FOR SPOLIATIONS COMMITTED BY THE FRENCH PRIOR TO THE 31ST OF JULY, 1801," WITH HIS OBJECTIONS THERETO, AS FOLLOWS:

To the House of Representatives:

I have received and carefully considered the bill entitled "An act to provide for the ascertainment of claims of American citizens for spoliations committed by the French

prior to the 31st of July, 1801," and, in the discharge of a duty imperatively enjoined on me by the Constitution, I return the same, with my objections, to the House of Representatives, in which it originated.

In the organization of the Government of the United States the legislative and executive functions were separated, and placed in distinct hands. Although the President is required, from time to time, to recommend to the consideration of Congress such measures as he shall judge necessary and expedient, his participation in the formal business of legislation is limited to the single duty, in a certain contingency, of demanding for a bill a particular form of vote prescribed by the Constitution, before it can become a law. He is not invested with power to defeat legislation by an absolute veto, but only to restrain it, and is charged with the duty, in case he disapprove a measure, of invoking a second and a more deliberate and solemn consideration of it on the part of Congress. It is not incumbent on the President to sign a bill as a matter of course, and thus merely to authenticate the action of Congress, for he must exercise intelligent judgment, or be faithless to the trust reposed in him. If he approve a bill he shall sign it; but if not, he shall return it with his objections to that house in which it shall have originated for such further action as the Constitution demands, which is its enactment if at all, not by a bare numerical majority, as in the first instance, but by a constitutional majority of two-thirds of both houses.

While the Constitution thus confers on the legislative bodies the complete power of legislation in all cases, it proceeds in the spirit of justice to provide for the protection of the responsibility of the President. It does not compel him to affix the signature of approval to any bill unless it actually have his approbation; for while it requires him to sign if he approve, it in my judgment imposes upon him the duty of withholding his signature if he do not approve. In the execution of his official duty in this respect he is not to perform a mere mechanical part, but is to decide and act according to conscientious convictions of the rightfulness or wrongfulness of the proposed law. In a matter as to which he is doubtful in his own mind, he may well defer to the majority of the two houses. Individual members of the respective houses, owing to the nature, variety, and amount of business pending, must necessarily rely for their guidance in many, perhaps most, cases, when the matters involved are not of popular interest, upon the investigation of appropriate committees, or it may be that of a single member, whose attention has been particularly directed to the subject. For similar reasons, but even to a greater extent, from the number and variety of subjects daily urged upon his attention, the President naturally relies much upon the investigation had, and the results arrived at by the two houses, and hence those results in large classes of cases constitute the basis upon which his approval rests. The President's responsibility is to the whole people of the United States; as that of a Senator is to the people of a particular State, that of a Representative to the people of a State or district; and it may be safely assumed that he will not resort to the clearly defined and limited power of arresting legislation, and calling for reconsideration of any measure, except in obedience to requirements of duty. When, however, he entertains a decisive and fixed conclusion, not merely of the unconstitutionality but of the impropriety or injustice in other respects of any measure, if he declare that he approves it he is false to his oath, and he deliberately disregards his constitutional obligations.

I cheerfully recognize the weight of authority which attaches to the action of a majority of the two houses. But in this case, as in some others, the framers of our Constitution, for wise considerations of public good, provided that nothing less than a two-thirds vote of one or both of the houses of Congress shall become effective to bind the co-ordinate departments of the government, the people, and the several States. If there be anything of seeming invidiousness in the official right conferred on the President, it is in appearance only, for the same right of approving or disapproving a bill, according to each one's own judgment, is conferred on every member of the Senate and of the House of Representatives.

It is apparent, therefore, that the circumstances must be extraordinary which would induce the President to withhold approval from a bill involving no violation of the Constitution. The amount of the claims proposed to be discharged by the bill before me, the nature of the transactions in which those claims are alleged to have originated, the length of time during which they have occupied the attention of Congress and the country, present such an exigency. Their history renders it impossible that a President, who has participated to any considerable degree in public affairs, could have failed to form respecting them a decided opinion upon what he would deem satisfactory grounds. Nevertheless, instead of resting on former opinions, it has seemed to me proper to review and more carefully examine the whole subject, so as satisfactorily to determine the nature and extent of my obligations in the premises.

I feel called upon at the threshold to notice an assertion, often repeated, that the refusal of the United States to satisfy these claims in the manner provided by the present bill, rests as a stain on the justice of our country. If it be so, the imputation on the public honor is aggravated by the consideration that the claims are coeval with the present century, and it has been a persistent wrong during that whole period of time. The

allegation is that private property has been taken for public use without just compensation in violation of express provision of the Constitution; and that reparation has been withheld and justice denied until the injured parties have, for the most part, descended to the grave. But it is not to be forgotten or overlooked that those who represented the people in different capacities at the time when the alleged obligations were incurred, and to whom the charge of injustice attaches in the first instance, have also passed away, and borne with them the special information which controlled their decision, and, it may be well presumed, constituted the justification of their acts.

If, however, the charge in question be well-founded, although its admission would inscribe on our history a page which we might desire most of all to obliterate, and although, if true, it might painfully disturb our confidence in the justice and high sense of moral and political responsibility of those whose memories we have been taught to cherish with so much reverence and respect, still we have only one course of action left to us, and that is to make the most prompt and ample reparation in our power, and consign the wrong as far as may be to forgetfulness.

But no such heavy sentence of condemnation should be lightly passed upon the sagacious and patriotic men who participated in the transactions out of which these claims are supposed to have arisen, and who, from their ample means of knowledge of the general subject in its minute details, and from their official position, are peculiarly responsible for whatever there is of wrong or injustice in the decisions of the government.

Their justification consists in that which constitutes the objection to the present bill, namely the absence of any indebtedness on the part of the United States. The charge of denial of justice in this case, and consequent stain upon our national charter, has not yet been indorsed by the American people. But if it were otherwise this bill so far from relieving the past, would only stamp on the present a more deep and indelible stigma. It admits the justice of the claims, concedes that payment has been wrongfully withheld for fifty years, and then proposes not to pay them, but to compound with the public creditors by providing that whether the claims shall be presented or not, whether the sum appropriated shall pay much or little of what shall be found due, the law itself shall constitute a perpetual bar to all future demands. This is not, in my judgment, the way to atone for wrongs, if they exist, nor to meet subsisting obligations.

If new facts, not known or *not accessible* during the administration of Mr. Jefferson, Mr. Madison, or Mr. Monroe, had since been brought to light, or new sources of information discovered, this would greatly relieve the subject of embarrassment. But nothing of this nature has occurred.

That these eminent statesmen had the best means of arriving at a correct conclusion, no one will deny. That they never recognized the alleged obligations on the part of the government is shown by the history of their respective administrations. Indeed it stands, not as a matter of controlling authority, but as a fact of history, that these claims have never, since our existence as a nation, been deemed by any President worthy of recommendation to Congress.

Claims to payment can rest only on the plea of indebtedness on the part of the government. This requires that it should be shown that the United States have incurred liability to the claimants, either by such acts as deprived them of their property, or by having actually taken it for public use without making just compensation for it.

The first branch of the proposition, that on which an equitable claim to be indemnified by the United States for losses sustained might rest, requires at least a cursory examination of the history of the transactions on which the claims depend. The first link which, in the chain of events, arrests attention, is the treaties of alliance and of amity and commerce between the United States and France, negotiated in 1778. By those treaties peculiar privileges were secured to the armed vessels of each of the contracting parties in the ports of the other; the freedom of trade was greatly enlarged; and mutual obligations were incurred by each to guarantee to the other their territorial possessions in America.

In 1792–'93, when war broke out between France and Great Britain, the former claimed privileges in American ports, which our government did not admit as deducible from the treaties of 1778, and which it was held were in conflict with obligations to the other belligerent powers. The liberal principle of one of the treaties referred to—that free ships make free goods, and that subsistence and supplies were contraband of war, unless destined to a blockaded port—was found, in a commercial view, to operate disadvantageously to France, as compared with her enemy, Great Britain, the latter asserting, under the law of nations, the right to capture, as contraband, supplies when bound for an enemy's port.

Induced mainly, it is believed, by these considerations, the Government of France decreed, on the 9th of May, 1793, the first year of the war, that "the French people are no longer permitted to fulfill towards the neutral powers in general the vows they have so often manifested, and which they constantly make for the full and entire liberty of commerce and navigation"; and, as a counter measure to the course of Great

Britain, authorized the seizure of neutral vessels bound to an enemy's port, in like manner as that was done by her great maritime rival. This decree was made to act retrospectively, and to continue until the enemies of France should desist from depredations on the neutral vessels bound to ports of France. Then followed the embargo, by which our vessels were detained in Bordeaux; the seizure of British goods on board of our ships, and of the property of American citizens, under the pretense that it belonged to English subjects; and the imprisonment of American citizens captured on the high seas.

Against these infractions of existing treaties and violations of our rights as a neutral power we complained and remonstrated. For the property of our injured citizens we demanded that due compensation should be made, and from 1793 to 1797 used every means, ordinary and extraordinary, to obtain redress by negotiation. In the last-mentioned year these efforts were met by a refusal to receive a minister sent by our government with special instructions to represent the amicable disposition of the Government and people of the United States, and their desire to remove jealousies and to restore confidence by showing that the complaints against them were groundless. Failing in this, another attempt to adjust all differences between the two republics was made in the form of an extraordinary mission, composed of three distinguished citizens, but the refusal to receive was offensively repeated, and thus terminated this last effort to preserve peace and restore kind relations with our early friend and ally, to whom a debt of gratitude was due which the American people have never been willing to depreciate or to forget. Years of negotiation had not only failed to secure indemnity for our citizens and exemption from further depredation, but these long-continued efforts had brought upon the government the suspension of diplomatic intercourse with France, and such indignities as to induce President Adams, in his message of May 16, 1797, to Congress, convened in special session, to present it as the particular for their consideration, and to speak of it in terms of the highest indignation. Thenceforward the action of our government assumed a character which clearly indicates that hope was no longer entertained from the amicable feeling or justice of the Government of France, and hence the subsequent measures were those of force.

On the 28th of May, 1798, an act was passed for the employment of the Navy of the United States against "armed vessels of the Republic of France," and authorized their capture if "found hovering on the coast of the United States for the purpose of committing depredations on the vessels belonging to the citizens thereof." On the 18th of June, 1798, an act was passed prohibiting commercial intercourse with France under the penalty of the forfeiture of the vessels so employed. On the 25th of June, the same year, an act to arm the merchant marine to oppose searches, capture aggressors, and recapture American vessels taken by the French. On the 28th of June same year, was passed an act for the condemnation and sale of French vessels captured by authority of the act of 28th of May preceding. On the 27th of July, same year, was passed an act abrogating the treaties and the convention which had been concluded between the United States and France, and declaring "that the same shall not henceforth be regarded as legally obligatory on the government or citizens of the United States." On the 9th of the same month an act was passed which enlarged the limits of the hostilities then existing, by authorizing our public vessels to capture armed vessels of France wherever found upon the high seas, and conferred power on the President to issue commissions to private armed vessels to engage in like service.

These acts, though short of a declaration of war, which would put all the citizens of each country in hostility with those of the other, were nevertheless actual war, partial in its application, maritime in its character, but which required the expenditure of much of our public treasure, and much of the blood of our patriotic citizens, who, in vessels but little suited to the purposes of war, went forth to battle on the high seas for the rights and security of their fellow citizens, and to repel indignities offered to the national honor.

It is not, then, because of any failure to use all available means, diplomatic and military, to obtain reparation, that liability for private claims can have been incurred by the United States; and if there is any pretense for such liability, it must flow from the action, not from the neglect of the United States. The first complaint on the part of France was against the proclamation of President Washington, of April 22, 1793. At that early period in the war which involved Austria, Prussia, Sardinia, the United Netherlands, and Great Britain on the one part, and France on the other, the great and wise man who was the chief executive, as he was and had been the guardian of our then infant republic, proclaimed that "the duty and interest of the United States require that they should, with sincerity and good faith, adopt and pursue a conduct friendly and impartial towards the belligerent powers." This attitude of neutrality, it was pretended, was in disregard of the obligations of alliance between the United States and France. And this, together with the often renewed complaint that the stipulations of the treaties of 1778 had not been observed and executed by the United States, formed the pretext for the series of outrages upon our government and its citizens, which finally drove us to seek redress and safety by an appeal to force. The treaties

of 1778, so long the subject of French complaints, are now understood to be the foundation upon which are laid these claims of indemnity from the United States for spoliations committed by the French prior to 1800. The act of our government which abrogated not only the treaties of 1778, but also the subsequent consular convention of 1788 has already been referred to, and it may be well here to inquire what the course of France was in relation thereto. By the decrees of 9th of May, 1793, 7th of July, 1796, and 2d of March, 1797, the stipulations which were then and subsequently most important to the United States, were rendered wholly inoperative. The highly injurious effects which these decrees are known to have produced, show how vital were the provisions of treaty which they violated, and make manifest the incontrovertible right of the United States to declare, as the consequence of these acts of the other contracting party, the treaties at an end.

The next step in this inquiry is, whether the act declaring the treaties null and void was ever repealed, or whether by any other means the treaties were ever revived so as to be either the subject or source of national obligation? The war which has been described was terminated by the treaty of Paris of 1800, and to that instrument it is necessary to turn to find how much of pre-existing obligations between the two governments outlived the hostilities in which they had been engaged. By the second article of the treaty of 1800 it was declared "that the ministers plenipotentiary of the two parties not being able to agree respecting the treaties of alliance, amity, and commerce of 1778 and the convention of 1788, nor upon the indemnities mutually due or claimed, the parties will negotiate further on these subjects at a convenient time, and until they shall have agreed upon these points the said treaties and convention shall have no operation."

When the treaty was submitted to the Senate of the United States, the second article was disagreed to and the treaty amended by striking it out and inserting a provision that the convention then made should continue in force eight years from the date of ratification, which convention thus amended was accepted by the First Consul of France, with the addition of a note explanatory of his construction of the convention, to the effect that by the retrenchment of the second article the two states renounce the respective pretensions which were the object of the said article.

It will be perceived by the language of the second article, as originally framed by the negotiators, that they had found themselves unable to adjust the controversies on which years of diplomacy and of hostilities had been expended, and that they were at last compelled to postpone the discussion of those questions to that most indefinite period, "a convenient time." All, then, of these subjects, which was revived by the convention, was the right to renew, when it should be convenient to the parties, a discussion which had already exhausted negotiations, involved the two countries in a maritime war, and on which the parties had approached no nearer to concurrence than they were when the controversy began. (P. 403, end of 2d paragraph.)

The obligations of the treaty of 1778, and the convention of 1788, were mutual, and estimated to be equal. But however onerous they may have been to the United States, they had been abrogated, and were not revived by the convention of 1800, but expressly spoken of as suspended until an event which could only occur by the pleasure of the United States. It seems clear, then, that the United States were relieved of no obligation to France by the retrenchment of the second article of the convention, and if thereby France was relieved of any valid claims against her, the United States received no consideration in return; and that if private property was taken by the United States from their own citizens, it was not for public use. But it is here proper to inquire whether the United States did relieve France from valid claims against her on the part of the citizens of the United States, and did thus deprive them of their property.

The complaints and counter-complaints of the two governments had been, that treaties were violated, and that both public and individual rights and interests had been sacrificed. The correspondence of our ministers engaged in negotiations, both before and after the convention of 1800, sufficiently proves how hopeless was the effort to obtain full indemnity from France for injuries inflicted on our commerce from 1793 to 1800, *unless it should be by an account in which the rival pretensions of the two governments should each be acknowledged, and the balance struck between them.*

It is supposable, and may be inferred from contemporaneous history as probable, that had the United States agreed in 1800 to revive the treaties of 1778 and 1788, with the construction which France had placed upon them, that the latter government would, on the other hand, have agreed to make indemnity for those spoliations which were committed under the pretext that the United States were faithless to the obligations of the alliance between the two countries. Hence the conclusion, that the United States did not sacrifice private rights or property to get rid of public obligations, but only refused to reassume public obligations for the purpose of obtaining the recognition of the claims of American citizens on the part of France.

All those claims which the French Government was willing to admit, were carefully provided for elsewhere in the convention, and the declaration of the First Consul,

which was appended in his additional note, had no other application than to the claims which had been mutually made by the governments, but on which they had never approximated to an adjustment. In confirmation of the fact that our government did not intend to cease from the prosecution of the just claims of our citizens against France reference is here made to the annual message of President Jefferson, of December 8, 1801, which opens with expressions of his gratification at the restoration of peace among sister nations, and after speaking of the assurances received from all nations with whom we had principal relations, and of the confidence thus inspired that our peace with them would not have been disturbed if they had continued at war with each other, he proceeds to say:

"But a cessation of irregularities which had afflicted the commerce of neutral nations, and of the irritations and injuries produced by them, cannot but add to this confidence, and strengthen at the same time the hope that wrongs committed on unoffending friends, under a pressure of circumstances, will now be reviewed with candor, and will be considered as founding just claims of retribution for the past and new assurances for the future."

The zeal and diligence with which the claims of our citizens against France were prosecuted, appear in the diplomatic correspondence of the three years next succeeding the convention of 1800, and the effect of these efforts is made manifest in the convention of 1803, in which provision was made for payment of a class of cases, the consideration of which France had at all previous periods refused to entertain, and which are of that very class which it has been often assumed were released by striking out the second article of the convention of 1800. This is shown by reference to the preamble, and to the fourth and fifth articles of the convention of 1803, by which were admitted among the *debts* due by France to citizens of the United States the amounts chargeable for "prizes made at sea in which the appeal has been properly lodged within the time mentioned in the said convention of the 30th of September, 1800;" and this class was further defined to be only "captures of which the council of prizes shall have ordered restitution, it being well understood that the claimant cannot have recourse to the United States, otherwise than he might have had to the French Republic, and only in case of the insufficiency of the captors."

If, as was affirmed on all hands, the convention of 1803 was intended to close all questions between the governments of France and the United States, and twenty millions of francs were set apart as a sum which might exceed, but could not fall short of, the debts due by France to the citizens of the United States, how are we to reconcile the claim now presented with the estimates made by those who were of the time and immediately connected with the events, and whose intelligence and integrity have in no small degree contributed to the character and prosperity of the country in which we live? Is it rational to assume that the claimants, who now present themselves for indemnity by the United States, represent debts which would have been admitted and paid by France but for the intervention of the United States? And is it possible to escape from the effect of the voluminous evidence tending to establish the fact that France resisted all these claims; that it was only after long and skillful negotiation that the agents of the United States obtained the recognition of such of the claims as were provided for in the conventions of 1800 and 1803? And is it not conclusive against any pretensions of possible success on the part of the claimants, it left unaided to make their applications to France, that the only debts due to American citizens which have been paid by France are those which were assumed by the United States as a part of the consideration in the purchase of Louisiana?

There is little which is creditable either to the judgment or patriotism of those of our fellow-citizens who, at this day, arraign the justice, the fidelity, or love of country of the men who founded the republic, in representing them as having bartered away the property of individuals to escape from public obligations, and then to have withheld from them just compensation. It has been gratifying to me, in tracing the history of these claims, to find that ample evidence exists to refute an accusation which would impeach the purity, the justice, and the magnanimity of the illustrious men who guided and controlled the early destinies of the republic.

I pass from this review of the history of the subject, and, omitting many substantial objections to these claims, proceed to examine somewhat more closely the only grounds upon which they can by possibility be maintained.

Before entering on this, it may be proper to state distinctly certain propositions which, it is admitted on all hands, are essential to prove the obligations of the government.

First. That at the date of the treaty of September 30, 1800, these claims were valid and subsisting as against France.

Second. That they were released or extinguished by the United States in that treaty, and by the manner of its ratification.

Third. That they were so released or extinguished for a consideration valuable to the government, but in which the claimants had no more interest than any other citizens.

The convention between the French Republic and the United States of America, signed at Paris on the 30th day of September, 1800, purports in the preamble to be founded on the equal desire of the First Consul (Napoleon Bonaparte) and the President of the United States to terminate the *differences* which have arisen between the two states. It declares, in the first place, that there shall be firm, inviolable, and universal peace and a true and sincere friendship between the French Republic and the United States. Next it proceeds, in the second, third, fourth, and fifth articles, to make provision in sundry respects, having reference to past *differences*, and the transition from the state of war between the two countries to that of general and permanent peace. Finally, in the residue of the twenty-seventh article, it stipulates anew the conditions of amity and intercourse, commercial and political, thereafter to exist, and, of course, to be substituted in place of the previous conditions of the treaties of alliance and of commerce, and the consular conventions, which are thus tacitly, but unequivocally, recognized as no longer in force, but in effect abrogated, either by the state of war, or by the political action of the two republics.

Except in so far as the whole convention goes to establish the fact that the previous treaties were admitted on both sides to be at an end, none of the articles are directly material to the present question, save the following:

ART. II. "The ministers plenipotentiaries of the two parties not being able to agree at present respecting the treaty of alliance of the 6th February, 1778, the treaty of amity and commerce of the same date, and the convention of the 14th November, 1788, nor upon the indemnities mutually due or claimed, the parties will negotiate further on these subjects at a convenient time; and until they may have agreed upon these points, the said treaties and convention shall have no operation, and the relations of the two countries shall be regulated as follows":

* * * * * * *

ART. V. "The debts contracted by one of the two nations with individuals of the other, or by the individuals of one with the individuals of the other, shall be paid, or the payment may be prosecuted, in the same manner as if there had been no misunderstanding between the two States. *But this clause shall not extend to indemnities claimed on account of captures or confiscations.*"

On this convention being submitted to the Senate of the United States, they consented and advised to its ratification with the following proviso:

"*Provided*, That the second article be expunged, and that the following article be added or inserted: 'It is agreed that the present convention shall be in force for the term of eight years from the time of the exchange of ratifications.'"

The spirit and purpose of this change are apparent and unmistakable. The convention, as signed by the respective plenipotentiaries, did not adjust all the points of controversy. Both nations, however, desired the restoration of peace. Accordingly, as to those matters in the relations of the two countries concerning which they could agree, they did agree for the time being; and as to the rest, concerning which they could not agree, they suspended and postponed further negotiation.

They abandoned no pretensions, they relinquished no right on either side, but simply adjourned the question until "a convenient time." Meanwhile, and until the arrival of such convenient time, the relations of the two countries were to be regulated by the stipulations of the convention.

Of course the convention was on its face a temporary and provisional one, but in the worst possible form of prospective termination. It was to cease at a convenient time. But how should that convenient time be ascertained? It is plain that such a stipulation, while professedly not disposing of the present controversy, had within itself the germ of a fresh one; for the two governments might at any moment fall into dispute on the question whether that convenient time had come or had not arrived. The Senate of the United States anticipated and prevented this question by the only possible expedient—that is, the designation of a precise date. This being done, the remaining parts of the second article became superfluous and useless; for, as all necessarily follow that negotiations must be renewed within that period; more especially as the operation of the amendment, which covered the whole convention, was, that even the stipulation of peace in the first article became temporary and expired in eight years, whereas that article, and that article alone, was permanent according to the original tenor of the convention.

The convention thus amended being submitted to the First Consul, was ratified by him, his act of acceptance being accompanied with the following declaratory note:

"The Government of the United States having added in its ratification that the convention should be in force for the space of eight years, and having omitted the second article, the Government of the French Republic consents to accept, ratify, and confirm the above convention, with the addition importing that the convention shall be in force for the space of eight years, and with the retrenchment of the second article: *Provided that by this retrenchment the two States renounce the respective pretensions which are the object of the said article.*"

The convention, as thus ratified by the First Consul, having been again submitted to

the Senate of the United States, that body resolved that "they considered the convention as fully ratified," and returned the same to the President for promulgation, and it was accordingly promulgated in the usual form by President Jefferson.

Now, it is clear, that in simply resolving that "they considered the conventtion as ully ratified," the Senate did, in fact, abstain from any express declaration of dissent or assent to the construction put by the First Consul on the retrenchment of the second article. If any inference beyond this can be drawn from their resolution, it is, that they regarded the proviso annexed by the First Consul to his declaration of acceptance as foreign to the subject, as nugatory, or as without consequence or effect. Notwithstanding this proviso, they considered the ratification as full. If the new proviso made any change in the previous import of the convention, then it was not full. And in considering it a full ratification, they in substance deny that the proviso did, in any respect, change the tenor of the convention.

By the second article, as it originally stood, neither republic had relinquished its existing rights or pretensions, either as to other previous treaties, or the indemnities mutually due or claimed, but only deferred the consideration of them to a convenient time. By the amendment of the Senate of the United States, that convenient time, instead of being left indefinite, was fixed at eight years; but no right or pretension of either party was surrendered or abandoned.

If the Senate erred in assuming that the proviso added by the First Consul did not affect the question, then the transaction would amount to nothing more that to have raised a new question to be disposed of on resuming the negotiations, namely, the question whether the proviso of the First Consul did or did not modify or impair the effect of the convention, as it had been ratified by the Senate.

That such, and such only, was the true meaning and effect of the transaction; that it was not, and was not intended to be, a relinquishment by the United States of any existing claim on France, and especially that it was not an abandonment of any claims of individual citizens, nor the set-off of these against any conceded national obligations of France, is shown by the fact that President Jefferson did at once resume and prosecute to successful conclusion negotiations to obtain from France indemnification for the claims of citizens of the United States existing at the date of that convention; for, on the 30th of April, 1803, three treaties were concluded at Paris between the United States of America and the French Republic, one of which embraced the cession of Louisiana; another stipulated for the payment of sixty millions of francs by the United States to France, and a third provided that, for the satisfaction of sums due by France to citizens of the United States at the conclusion of the convention of September 30, 1800, and in express compliance with the second and fifth articles thereof, a further sum of twenty millions of francs should be appropriated and paid by the United States. In the preamble to the first of these treaties, which ceded Louisiana, it is set forth that—

"The President of the United States of America and the First Consul of the French Republic, in the name of the French people, desiring to remove all source of misunderstanding relative to objects of discussion mentioned in the second and fifth articles of the convention of the eighth Vendémiaire, an. 9 (30th September, 1800), relative to the rights claimed by the United States in virtue of the treaty concluded at Madrid the 27th of October, 1795, between his Catholic majesty and the said United States, and willing to strengthen the union and friendship which at the time of the said convention was happily re-established between the two nations, have respectively named their plenipotentiaries, who 'have agreed to the following articles:'"

Here is the most distinct and categorical declaration of the two governments, that the matters of claim in the second article of the convention of 1800 had not been ceded away, relinquished, or set off, but they were still subsisting subjects of demand against France. The same declaration appears in equally emphatic language in the third of these treaties, bearing the same date, the preamble of which recites that—

"The President of the United States of America and the First Consul of the French Republic, in the name of the French people, having, by treaty of this date, terminated all difficulties relative to Louisiana, and established on a solid foundation the friendship which unites the two nations, and, being desirous, in compliance with the second and fifth articles of the convention of the 8th Vendémiaire, ninth year of the French Republic (30th of September, 1800), to secure the payment of the sums due by France to the citizens of the United States," and "have appointed plenipotentiaries," who agreed to the following, among other articles:

ARTICLE I. "The *debts* due by France to citizens of the United States, *contracted* before the 8th Vendémiaire, ninth year of the French Republic (30th September, 1800), shall be paid according to the following regulations, with interest at six per cent., to commence from the periods when the *accounts and vouchers* were presented to the French Government."

ART. II. "The *debts* provided for by the preceding article are those whose result is comprised in the conjectural note annexed to the present convention, and which, with the interest, cannot exceed the sum of twenty millions of francs. The *claims* comprised

in the said note which fall within the exceptions of the following articles shall not be admitted to the benefits of this provision."

* * * * * * *

ART. IV. "It is expressly agreed that the preceding articles shall comprehend *no debts* but such as are *due* to citizens of the United States, who have been and are yet creditors of France, for supplies, for embargoes, and prizes made at sea, *in which the appeal has been properly lodged* within the time mentioned in the said convention, 8th Vendémiaire, ninth year (30th September, 1800)."

ART. V. "The preceding articles shall apply only, first, to captures of which the council of prizes shall have ordered restitution, it being well understood that the claimant cannot have recourse to the United States, otherwise than he might have had to the Government of the French Republic, and only in case of insufficiency of the captors; second, the *debts* mentioned in the said fifth article of the convention, *contracted* before the 8th Vendémiaire, an. 9 (30th September, 1800), the payment of France, and for which the *creditors* have a right to the protection of the United States, the said fifth article *does not comprehend prizes whose condemnation has been or shall be confirmed.* It is the express intention of the contracting parties not to extend the benefit of the present convention to reclamations of American citizens, who shall have established houses of commerce in France, England, or other countries than the United States, in partnership with foreigners, and who by that reason, and the nature of their commerce, ought to be regarded as domiciliated in the places where such houses exist. All agreements and bargains concerning merchandise, which shall not be the property of American citizens, are equally excepted from the benefit of the said convention, saving, however, to such persons their claims in like manner as if this treaty had not been made."

* * * * * * *

ART. XII. "In case of claims for *debts contracted* by the Government of France with citizens of the United States since the 8th Vendémiaire, ninth year (30th September, 1800), not being comprised in this convention, may be pursued, and the payment demanded in the same manner as if it had not been made."

Other articles of the treaty provide for the appointment of agents to liquidate the claims intended to be secured, and for the payment of them as allowed, at the Treasury of the United States. The following is the concluding clause of the tenth article:

"The rejection of any claim shall have no other effect than to exempt the United States from the payment of it, the French Government reserving to itself the right to decide definitely on such claim so far as it concerns itself."

Now, from the provisions of the treaties thus collated, the following deductions undeniably follow, namely:

First. Neither the second article of the convention of 1800, as it originally stood, nor the retrenchment of that article, nor the proviso in the ratification by the First Consul, nor the action of the Senate of the United States thereon, was regarded by either France or the United States, as the renouncement of any claims of American citizens against France.

Second. On the contrary, in the treaties of 1803 the two governments took up the question precisely where it was left on the day of the signature of that of 1800, without suggestion on the part of France, that the claims of our citizens were excluded by the retrenchment of the second article, or the note of the First Consul, and proceeded to make ample provision for such as France could be induced to admit were justly, and they were accordingly discharged in full, with interest, by the United States in the stead and behalf of France.

Third. The United States, not having admitted in the convention of 1800 that they were under any obligations to France, by reason of the abrogation of the treaties of 1778 and 1788, persevered in this view of the question by the tenor of the treaties of 1803, and therefore had no such national obligation to discharge, and did not, either in purpose or in fact, at any time undertake to discharge themselves from any such obligation at the expense, and with the property of individual citizens of the United States.

Fourth. By the treaties of 1803, the United States obtained from France the acknowledgment and payment, as part of the indemnity for the cession of Louisiana, of claims of citizens of the United States for spoliations, so far as France would admit her liability in the premises; but even then the United States did not relinquish any claim of American citizens not provided for by those treaties; so far from it, to the honor of France, be it remembered, she expressly reserved to herself the right to reconsider any rejected claims of citizens of the United States.

Fifth. As to claims of citizens of the United States against France, which had been the subject of controversy between the two countries prior to the signature of the convention of 1800 and the further consideration of which was reserved for a more convenient time by the second article of that convention; for these claims, and these only, provision was made in the treaties of 1803, all other claims being expressly excluded by them from their scope and purview.

It is not to be overlooked, though not necessary to the conclusion, that by the convention between France and the United States of the 4th of July, 1831, complete provision was made for the liquidation, discharge, and payment, on both sides, of all claims of citizens of either against the other for unlawful seizures, captures, sequestrations, or destructions of the vessels, cargoes, or other property, without any limitation of time, so as in terms to run back to the date of the last preceding settlement, at least of that of 1803, if not to the commencement of our national relations with France.

This review of the successive treaties between France and the United States has brought my mind to the undoubting conviction that while the United States have, in the most ample and the completest manner, discharged their duty towards such of their citizens as may have been at any time aggrieved by acts of the French Government, so, also, France has honorably discharged herself of all obligations in the premises towards the United States. To concede what this bill assumes would be to impute undeserved reproach to France and to the United States.

I am, of course, aware that the bill proposes only to provide indemnification for such valid claims of citizens of the United States against France as shall not have been stipulated for and embraced in any of the treaties enumerated. But, in excluding all such claims, it excludes all in fact for which, during the negotiations, France could be persuaded to agree that she was in any wise liable to the United States or our citizens. What remains? And for what is five millions appropriated? In view of what has been said, there would seem to be no ground on which to raise a liability of the United States, unless it be the assumption that the United States are to be considered the insurer and the guarantor of all claims, of whatever nature, which any individual citizen may have against a foreign nation.

FRANKLIN PIERCE.

WASHINGTON, *February* 17, 1855.

EXHIBIT C.

[Senate Report No. 10, Forty-first Congress, second session.]

IN THE SENATE OF THE UNITED STATES.

JANUARY 17, 1870.—Ordered to be printed.

Mr. SUMNER made the following report (to accompany bill S. No. 350):

The Committee on Foreign Relations, to whom was referred Senate bill No. 35, *to provide for the adjustment and satisfaction of claims of American citizens for spoliations committed by the French prior to* 31*st day of July*, 1801, *beg leave to report that they now adopt the report of the committee on this bill made to the Senate April* 4, 1864, *as follows:*

The Committee on Foreign Relations, to whom were referred the petition of sundry citizens of New York, presented at the present session, and also numerous petitions and resolutions of State legislatures, taken from the files of the Senate, asking just compensation for "individual" claims on France, appropriated by the United States to obtain a release from important "national" obligations, have had the same under consideration, and beg leave to report:

The welfare of the republic requires that there should be an end of "suits," lest, while men are mortal, these should be immortal. Such is a venerable maxim of the law, which is illustrated by the case now before the committee. The present claims have outlived all the original sufferers, and at least two generations of those who have so ably enforced them in the halls of Congress. Against their unwonted vitality death has not been able to prevail.

CHARACTER OF THESE CLAIMS.

Of all claims in our history, these are most associated with great events and great sacrifices. First in time, they are also first in character, for they spring from the very cradle of the republic and the trials of its infancy. To comprehend them, you must know, first, how independence was won; and, secondly, how, at a later day, peace was assured. Other claims have been merely personal or litigious; these are historic. Here were "individual" losses, felt at the time most keenly, and constituting an unanswerable claim upon France, which were employed by our government at a critical moment, like a credit or cash in hand, to purchase release from outstanding "national" obligations, so that the whole country became, at once, the trustee of these sufferers, bound, of course, to gratitude for the means thus contributed, but bound also to indemnify them against these losses. And yet these sufferers, thus unique

in situation, have been compelled to see all other claims for foreign spoliations satisfied while they alone have been turned away. As early as 1794 our plundered fellow citizens obtained compensation, to the amount of more than ten million dollars, on account of British spoliations. Similar indemnities have been obtained since from Spain, Naples, Denmark, Mexico, and the South American states, while, by the famous convention of 1831, France contributed five million dollars to the satisfaction of spoliations under the continental system of Napoleon. Spain stipulated to pay for every ship or cargo taken within Spanish waters even by the French, so that the French spoliations on our commerce within Spanish waters have been paid for, but French spoilations on our commerce elsewhere before 1800 are still unredeemed. Such has been the fortune of claimants the most meritorious of all.

In all other cases there has been simply a claim for foreign spoliations, but without any superadded obligation on the part of our government. Here is a claim for foreign spoliations, the precise counterpart of all other claims, but with a superadded obligation, on the part of our government, in the nature of a debt, constituting an *assumpsit*, or implied promise to pay; so that these sufferers are not merely *claimants* on account of French spoliations, but they are also *creditors* on account of a plain assumption by the government of the undoubted liability of France. The appeal of these *claimant-creditors* is enhanced beyond the pecuniary interests involved when we consider the nature of this assumption, and especially that, in this way, our country obtained a final release from embarrassing stipulations with France contracted in the war for national independence. Regarding it, therefore, as a *debt*, it constitutes a part of that sacred debt incurred for national independence, and is the only part remaining unpaid.

PRELIMINARY OBJECTIONS.

Before proceeding to consider the nature of existing obligations on the part of the United States, the committee ask attention to three objections which they encounter on the threshold: the first, founded on the alleged antiquity of the original claims; the second, on the alleged character of the actual possessors; and the third, on the present condition of the country.

CLAIMS ANCIENT, BUT NOT STALE.

(1.) It is said that the claims are ancient and stale, and, therefore, should not be entertained. It is true that the claims are the most ancient of any now pending, and that they date from the very origin of our existence as a nation. But in this respect they do not differ from a Revolutionary pension or a Revolutionary claim. Down to this day there is a standing committee of the Senate entitled "Committee on Revolutionary Claims"; but if a claim which may be traced to the Revolution must be rejected for staleness, there can be little use for this committee. If these claims, after uninterrupted sleep throughout the long intervening period, were now, for the first time, revived, they might be obnoxious to this imputation. But as, from the beginning of the century, they have occupied the attention of Congress, and been sustained by speeches, reports, and votes, it is impossible to say that they have been allowed to sleep.

The whole case was stated with admirable succinctness, as long ago as 1807, by Mr. Marion, of South Carolina, in the report of a committee of the House of Representatives, in the following words:

"From a mature consideration of the subject, and from the best judgment your committee have been able to form on the case, *they are of opinion that this government*, by expunging thesecond article of our convention with France of the 30th of September, 1800, *became bound to indemnify the memorialists for their just claims* which they would otherwise rightfully have had on the government of France, for the spoliations committed on their commerce by the illegal captures made by the cruisers and other armed vessels of that power, in violation of the law of nations and in breach of treaties then existing between the two nations; which claims they were, by the rejection of the said article of the convention, forever barred from presenting to the Government of France for compensation."

Claims thus authoritatively stated at that early day cannot be overcome by any sleep.

It is true that these claims were pressed with less constancy and determination at the beginning of the century than at a later day. But there are two sufficient reasons for the change. First, the evidence on which they are founded was less generally known at the beginning than afterward. It was only in 1826, under the administration of John Quincy Adams, by the communication to Congress of the ample materials accumulated in the archives of state, that the true strength of the case was fully revealed. Here, in one full volume, was the documentary history of the whole double transaction, showing, at once, the original obligation of France, and the substituted obligation of the United States, re-enforced by the associations of our own Revolution-

ary history. A more sufficient reason for this change may be found in the fact that for some time in the early part of the century our country was still laboring under the pressure of the Revolutionary debt. As this pressure was gradually removed, and the national resources became more apparent, these claims were naturally urged with more confidence, until, on the final extinction of that debt, they occupied the attention of the best minds in both houses of Congress.

No single question in our history has been the subject of such a succession of able reports. Whether counted or weighed, these reports are equally exceptional. They are no less than forty-one in number, twenty-three in the Senate and eighteen in the House. Among the eminent characters whose names they bear are Edward Livingston, John Holmes, Edward Everett, Daniel Webster, Caleb Cushing, Charles J. Ingersoll, John M. Clayton, and Rufus Choate. Out of the whole number only three have been adverse, one in the Senate and two in the House. But the three adverse reports were evasive only, besides being prior to the communication of the decisive evidence on the subject. The thirty-eight reports since that communication were all in favor of the claims.—[*See Appendix A.*]

Resolutions in favor of these claims by thirteen States, being the original number which declared independence, have been presented to Congress between the years 1832 and 1858. Some States, not content with one series, have repeated their resolutions and accompanied them with elaborate arguments. They all tend to the conclusion that it is the bounden duty of Congress, without further delay, to make provision for these claims; and Senators and Representatives are earnestly requested to use their best exertions to secure the passage of a law of Congress to carry this obligation into effect.

Memorials and petitions from the beginning testify to the sleeplessness of these claims. On the 5th of February, 1802, only forty-six days after the promulgation of the convention of 1800, they began, and they have continued from that early day down to this very session of Congress, making in all three thousand two hundred and ninety-three. Of these, fourteen hundred and eighty-nine were in the Senate; eighteen hundred and four in the House. They are chiefly from original sufferers, their executors, administrators, assignees, widows, and heirs, residing in the large seaports from which the despoiled vessels originally sailed; but there are some from all parts of the country where, in the vicissitudes of life, the representatives of original sufferers have been carried—all of which may be seen in a list of these petitioners.

Two several times—once under President Polk, and again under President Pierce—both houses of Congress concurred in an act for the relief of these claimants; but this tardy justice was arrested by presidential veto.

In the face of this constant succession of reports, resolutions of State legislatures and petitions, constituting not only "continual claim," but continual recognition of the claim—the whole crowned by two several acts of Congress—it is impossible to attribute negligence to the claimants, or, indeed, any indulgence of inordinate confidence. They have had reason to believe that they should be successful. Under such circumstances, the lapse of time, which is sometimes urged against them, becomes an argument in their favor, for it adds constantly recurring testimony to their merits, besides a new title from the disappointment to which they have been doomed. Claims beginning thus early, and thus sustained, may be ancient, but they cannot be stale

POSSESSORS OF THE CLAIMS ARE NOT SPECULATORS.

(2.) There is a trivial remark, which is rather slur than objection, that may justify a moment's attention. It is sometimes said that these claims are no longer the property of the original sufferers or their representatives, but that they have passed, like a fancy stock, into the hands of speculators. This remark, if it had foundation in fact, has not much in equity. It would be hardly creditable for a government to take advantage of its own procrastination and refuse just compensation because the original sufferer had been compelled by unwelcome necessity to discount his claims.

From the nature of the case such claims, being unliquidated, do not readily pass from hand to hand, but remain in the original custody, as has become apparent in ample experience. Precisely the same reflection was cast upon the claims against Spain, Denmark, and Naples, and indeed it is cast upon long outstanding claims generally, until it has become a commonplace of sarcasm. The records of successive commissions which have liquidated foreign claims afford its best refutation. In every case these commissions required proof of property; but the evidence disclosed that the original sufferers or their legal representatives, including heirs, executors, assignees of bankrupts, persons having a lien for advances, or underwriters, possessing in law and equity the same right as the original sufferers, were the actual possessors of the larger part. There is no reason to suppose that it would be otherwise in the case of claims for French spoliations. On the contrary, it is believed that they remain substantially where they were when the losses took place.

The great speculator has been death; for there are few of these claims that have not passed through his hands. Such a transfer cannot draw the title into doubt, es-

pecially when we consider the character of the petitioners whose names are spread on the journals of Congress. It is well known that in many families these claims still exist as heirlooms, transmitted by ancestral care in the full confidence that, sooner or later, they will be recognized by the government.

PRESENT CONDITION OF THE COUNTRY NO REASON AGAINST PAYMENT OF JUST DEBTS.

(3.) It is sometimes suggested that, even assuming the meritorious character of these claims, yet, in the present condition of the country, they ought to be postponed. Looking at the practical consequences of this suggestion, it will be found that, though plausible in *form*, it is fatal in *substance*. Any postponement must inevitably throw these claims into direct competition with those now accumulating on account of losses during the rebellion, having in their favor the gushing sympathies of our time. It is not unjust to human nature if the committee say that the distant in time, like the distant in space, are too often out of mind. If the earlier claims are just they should not be exposed to the hazards of any such competition, when feeling will be stronger than reason. Indeed, from the probability of future claims, whose shadows already begin to appear, the argument is strengthened for the immediate satisfaction of those which now exist, especially when we consider their character and origin.

The resources of the people are now tasked to put down the rebellion which slavery has aroused. Let nothing be stinted. But there is another duty which must not be forgotten. *The just debts of the republic must be paid* to the last dollar. Here also nothing must be stinted, and the glory of the one will be kindred to the glory of the other. The republic will have new title to love at home and to honor abroad, when with one hand it overcomes the rebellion now menacing its existence, and with the other does justice to ancient petitioners, long neglected, constituting the only remaining creditors left to us from the war of independence.

STATEMENT OF THE QUESTION.

Therefore, putting aside all preliminary objections to these claims, from alleged antiquity, from the character of the actual possessors, or from the present condition of the country, the committee insist that the existing obligations of the United States must be determined according to principles of justice and the facts of the case. The hearing is now as if there had been no lapse of time since the obligations accrued, and as if no war now existed to task the country.

Is the money justly due? To answer this important question the subject must be considered in detail, under several heads:

First. The claims of citizens of the United States against France, founded on spoliations of our commerce, as seen in their origin and history.

Secondly. The counter-claims of France, founded on treaty stipulations and services rendered in the war of independence, as seen also in their origin and history.

Thirdly. The convention of 1800 and the reciprocal release of the two governments, by which the "individual" claims of the petitioners were treated as a set-off to the "national" claims of France.

Fourthly. The assumption by our government of the obligations of France, so that the United States were substituted for France, and became liable to these petitioners as France had been liable.

After considering these heads in their order, it will be proper to review the objections alleged against the liability of the United States: (1) from the semi-hostile relations between France and the United States anterior to the convention; (2) from payments under the Louisiana treaty; (3) from payments under the convention with France, in 1831; (4) from the act of Congress annulling the early treaties with France; (5) from the early efforts of our government to obtain from France the satisfaction of these claims; and (6) from the desperate character attributed to these claims at the time of their abandonment.

The question of "just compensation" will present itself last: (1) in the advantages secured to the United States by the sacrifice of these claims; (2) in the value of the losses which the claimants suffered; and (3) in the recommendation of the committee.

The subject is of such importance, from the magnitude of interests involved, and from its historic character, that the minuteness of this inquiry will not be regarded as superfluous.

THE CLAIMS OF AMERICAN CITIZENS IN THEIR ORIGIN AND HISTORY.

I. The history of French spoliations on our commerce is a gloomy chapter, where a friendly power, assuming the name of republic, shows itself fitful, passionate, and unjust. This conduct is more remarkable, when it is considered that only a short

time before, France, while yet a kingdom, contributed treasure and blood to sustain our national independence. And yet an explanation may be found in the extraordinary temper of the times. By a generous uprising of the people the kingdom was overthrown, and then, as the alarmed royalties of Europe intervened, the head of the monarch was flung to them as a gage of battle. The gage had been accepted in advance, and all those royalties, by successive treaties, entered into coalition against France. The fleets of England came tardily into the great contest, but their presence gave to it a new character, and enveloped ocean as well as land in its flames. The growing commerce of the United States suffered from both sides, but especially from France, driven to frenzy by the British attempt, in the exercise of belligerent rights, to starve a whole nation.

French feelings were still further aroused against the United States when, instead of friendship and alliance, France was encountered by the proclamation of neutrality launched by Washington on the 22d April, 1793, where he undertook, in behalf of the United States, "to adopt and pursue a conduct friendly and impartial toward the belligerent powers." Here, according to France, was a failure not only of that proper sympathy which was due from us, but even of solemn duties pledged by those early treaties which helped to secure the national independence. This failure, which became afterward the occasion of *counter claims*, contributed to the exasperations of the time.

An early apology, addressed to the American minister at Paris by the French Government, attests the spoliations which had begun, and discloses also their indefensible character, unless the common language spoken by the English as well as ourselves was a sufficient excuse. Here are the exact words:

"We hope that the government of the United States will attribute to their true cause the abuses of which you complain, as well as other violations of which our cruisers may render themselves guilty in the course of the present war. *It must perceive how difficult it is to contain within just limits the indignation of our marines, and, in general, of all the French patriots, against a people who speak the same language, and having the same habits as the free Americans.* The difficulty of distinguishing our allies from our enemies has often been the cause of offenses committed on board your vessels; all that the administration could do is to order indemnification to those who have suffered, and to punish the guilty." (*French Spoliations, Ex. Doc.*, 1826, p. 70.)

Thus heedlessly did these spoliations begin. But the national convention associated itself by formal act with this injustice, when, on the 9th May, 1793, only seventeen days after the proclamation of neutrality, but before it had arrived in France, a retaliatory decree was issued in response to the British attempt at starvation—arresting all neutral vessels laden with provisions, and destined to an enemy's port. It was not disguised, even in the decree itself, that it was a violation of the rights of neutrals; but the necessity of the case was pleaded, and *indemnity was promised to neutrals who might suffer by its operation.* Unwilling to await the dilatory performance of this promise, our minister at Paris remonstrated against the application of the decree to vessels of the United States. Amidst vacillations of the national assembly, which, under the urgency of our minister, at one time seemed to relent, the decree continued to be enforced against the property of American citizens. Here were spoliations, confessed at the time to be in violation of neutral rights, which still rise in judgment.

As the intelligence of these spoliations reached the United States, our whole commerce was fluttered. Merchants hesitated to expose ships and cargoes to such cruel hazards. It was necessary that something should be done to enlist again their activity. At this stage the national government *came forward voluntarily*, with assurance of protection and redress. This was in a circular letter, dated 27th August, 1793, when Mr. Jefferson, the Secretary of State, in the name of the President, used the following language: "I have it in charge from the President to assure the merchants of the United States, concerned in foreign commerce or navigation, that our attention will be paid to any injuries they may suffer on the high seas, or in foreign countries, contrary to the law of nations and existing treaties, and that, on their forwarding hither well-authenticated evidence of the same, *proper proceedings will be adopted for their relief.*"—(*French Spoliations, Ex. Doc.*, 1826, p. 217.) This circular was adopted by President Washington, in his message of December 5, 1793, where he speaks as follows: "The *vexations and spoliations* understood to have been committed on our vessels and commerce by the cruisers and officers of some of the belligerent powers, appeared to require attention. The proofs of these, however, not having been brought forward, the description of citizens supposed to have suffered were notified that, on furnishing them to the Executive, *due measures would be taken to obtain redress of the past*, and more effectual provisions against the future."—(*French Spoliations, Ex. Doc.*, 1826, p. 253.) Here, then, was a double promise from the national government, under the influence of which our merchants continued their commerce, and ventured once more upon the ocean. Their government had tempted them, and on the occurrence of "injuries on the high seas," these good citizens, according to instructions, made haste to lodge with

the Department of State the "well-authenticated evidence of the same." Their grandchildren and great-grandchildren are waiting, even now, the promised redress.

Thus, at the very beginning of these spoliations, they were recognized by both governments in their true character. The national convention, even in its arbitrary edict, confessed them. The administration of Washington, in its solemn assurance of protection, confessed them also. Offspring of wrongful violence in the heat of war, they were regarded on each side as indefensible. Ministers, in this respect, reflected the sentiments of the two governments. Fauchet, the French minister at Philadelphia, in a communication to the Secretary of State, under date of March 27, 1794, expressed himself in this manner: "If any of your merchants have suffered any injury by the conduct of our privateers (a thing which would be contrary to the intention and express order of the republic), they may, with confidence, address themselves to the French Government, which will never refuse justice to those whose claims are legal."—(*French Spoliations, Ex. Doc.*, 1826, p. 263.) Mr. Morris, our minister at Paris, under date of March 6, 1794, thus gave vent to his feelings: "These captures create great confusion, *must produce much damage to mercantile men*, and are a source of endless and well-founded complaint. Every post brings me piles of letters about it from all quarters, and I see no remedy. In the mean time, if I would give way to the clamors of the injured parties, I ought to make demands very like a declaration of war."—(*Ibid.*, p. 77.) But M. Buchot, the French commissioner of foreign relations, addressed to Mr. Morris the following soothing words, under date of July 5, 1794: "The sentiments of the convention and of the government toward your fellow-citizens are too well known to you to leave a doubt of *their disposition to make good the losses which circumstances inseparable from a great revolution may have caused some American navigators to experience.*"—(*Ibid.*, p. 77.) Such was the testimony at that day of ministers on both sides.

Meanwhile, Genet, the French minister at Philadelphia, was dismissed by President Washington on account of presumptuous interference in our affairs, especially hostile to the proclamation of neutrality; and John Jay was in London to negotiate the treaty of 1794, which goes under his name. Both these events added to the exasperation of France. But Mr. Monroe, who had taken the place of Mr. Morris at Paris, was full of sympathy for the new republic, even when he frankly discharged his unpleasant duties. In a communication to the committee of public safety, under date of October 18, 1794, he exposed a "frightful picture of difficulties and losses, equally injurious to both countries, which, if suffered to continue, must unavoidably interrupt for the time the commercial intercourse between them."—(*State Papers, Foreign Affairs*, vol. i, p. 683.) Notwithstanding this strong language, his influence was thought to have prevailed so far that President Washington ventured to announce in a confidential message of February 20, 1795, good news for our plundered merchants. "It affords me," he said, "the highest pleasure to inform Congress that perfect harmony reigns between the two republics, and *that these claims are in a train of being discussed with candor, and amicably adjusted.*"—(*Wait's American State Papers*, vol. 3, p. 402.) This perfect harmony was short-lived, and the hopes which flowed from it were nipped in the bud.

The knowledge of Mr. Jay's negotiations with England had already produced uneasiness in France; but, when the treaty, on its ratification, in October, 1795, was finally divulged, there was an outburst against us. The treaty was pronounced to be in violation of existing engagements with France, and our whole policy was openly branded by the president of the directory, in his reply to Mr. Monroe, as a "condescension of the American Government to the wishes of its ancient tyrant." The directory refused to receive Charles Cotesworth Pinckney, sent by our government in the place of James Monroe. Meanwhile, by a succession of cruel edicts, it unleashed all its cruisers to despoil our commerce, and to cry havoc wherever they sailed. On the 2d July it was declared that "the French republic will treat neutral vessels, either as to confiscations, searches, or capture, *in the same manner as they shall suffer the English to treat them.*" The indefinite terms of this edict were justly denounced by our government as giving scope for arbitrary construction, and consequently for unlimited oppression and vexation.—(*French Spoliations, Ex. Doc.*, 1826, p. 434.) These results were soon manifest. With contagious injustice, the French agents at St. Domingo reported to the government at home, "that having found no resource in finance, and knowing the unfriendly disposition of the Americans, and to avoid perishing in distress, they had armed for cruising, and that already eighty-seven cruisers were at sea; and that, for three months preceding, the administration had subsisted and individuals been enriched out of those prizes."—(*Ibid.*, p. 435.) So extensively did this brutality prevail, that it was announced that "American vessels no longer entered the French ports *unless carried in by force.*"—(*Ibid.*)

This spirit of retaliation broke forth in still another edict of the directory, which became at once a universal scourge to American commerce. This edict, which bears date March 2, 1797, after enlarging the list of contraband, and ordaining other measures of rigor, proceeds to declare all American vessels lawful prize, if found without

lic; and still further, handing over to condemnation "every vessel laden in or part with merchandise coming out of England or its possessions."—(*French tions, Ex. Doc.*, 1826, p. 483.) This edict was promptly denounced by the Amer- lenipotentiaries newly arrived at Paris. In earnest, vigorous tones they said invaded at the same time the interests and the independence of neutral powers; *took from them the profits of an honest and lawful industry*, as well as the inesti- privilege of conducting their own affairs as their own judgment might direct, at acquiescence in it would establish a precedent for national degradation that authorize any measures which power might be disposed to practice. Thus did enipotentiaries depict the spirit in which the French spoliations had their origin, e humiliating consequences of submission to the outrage. But the personal rs are, down to this day, without redress.

plexed and indignant at these proceedings, the Uni'ed States meanwhile consti- a special mission, composed of three eminent citizens, Mr. Pinckney, Mr. Mar- and Mr. Gerry, who were charged especially to secure indemnity for these spolia- In his elaborate letter of instructions, dated July 15, 1797, the Secretary of Mr. Pickering, lays down the following rule of conduct: "In respect to the lations on our commerce, the principal object will be to agree on an equitable of examining and deciding the claims of our citizens, and the manner and periods king compensation. The proposed mode of adjusting the claims, by commis- s appointed on each side, is so perfectly fair, we cannot imagine that it will be 1." Although this reparation was not made an "indispensable condition of the ed treaty," yet the plenipotentiaries were enjoined "not to renounce these of our citizens, *nor to stipulate that they be assumed by the United States Govern-* —(*French Spoliations, Ex. Doc.*, 1826, pp. 454, 455.) Thus fully were all these recognized at that time by our government, and most carefully placed under otection of our plenipotentiary triumvirate.

triumvirate found the French republic in no mood of justice. Bonaparte was riumphant at the head of the army of Italy, and Talleyrand was exhibiting his kable powers at the head of the foreign relations of France. Victory had given ence, and the exulting republic was standing tip-toe, more disposed to strike egotiate, unless it could dictate, and implacable always towards England and posed to sympathize with this power. After exactions and humiliations hard r, the plenipotentiaries were compelled to return home without being received lly by the intoxicated government to which they had been addressed, but not they had encountered the masterly ability of Talleyrand, who, in reply to their ent of the *claims* of the United States, presented the *counter-claims* of France. h remaining in Paris merely on sufferance, they had unofficial interviews with s agents of the republic, and even with Talleyrand himself; but without dwell- details which are not pertinent to this occasion, it is enough to say, that, while g to offer a loan or a bribe, they were able to declare frankly to Talleyrand France had taken violently from America more than fifteen millions of dollars, eated us in every respect as enemies" (*Wait's American State Papers*, vol. 3, p. nd also to receive from Talleyrand a concession, recorded in one of their dis- s, that "some of these claims were probably just"— with the inquiry, "whether, were acknowledged by France, we could not give a credit as to the payment,

general. The claims for French spoliations were never absent from the mind. By act of the 28th May, 1798, public vessels of the United States were authorized to capture all "armed vessels of the republic of France, *which have committed*, or shall be found hovering on the coast of the United States for the purpose of committing, *depredations on vessels belonging to citizens thereof;*" and this statute was introduced by a preamble asserting "*depredations on the commerce of the United States* in violation of the law of nations and of treaties." By act of June 13, 1798, all commercial intercourse was suspended between the United States and France, until the "government of France shall clearly disavow, and shall be found to refrain from *aggression, depredations, and hostilities by them encouraged and maintained against the vessels and other property of the citizens of the United States.*" By act of June 25, 1798, merchant vessels of the United States were authorized to resist search or seizure by any French armed vessel; to repel assaults and to capture the aggressors, until "the government of France shall cause the commanders and crews of all armed French vessels *to refrain from the lawless depredations and outrages hitherto encouraged and authorized by that government against the merchant vessels of the United States.*" By act of July 7, 1798, the treaties with France were declared to be no longer obligatory on the United States; and this statute was introduced by a preamble asserting that "*the just claims of the United States for reparation of injuries* had been refused, and their attempts to negotiate an amicable adjustment of all complaints between the two nations had been repelled with indignity." Thus, by express term, in repeated acts at the time, did Congress recognize the validity of these claims.

By these vigorous measures the rights of these claimants were asserted, and the country was put in an attitude of defense. The French directory became less intolerable, and negotiations were invited again, with the assurance that the former rudeness should not be renewed. John Adams was now President, and for the sake of peace he seized the opportunity of this overture, by appointing Chief Justice Ellsworth, Patrick Henry, and William Van Murray as a second plenipotentiary triumvirate to France. As Mr. Henry declined, Mr. Davie, of North Carolina, was substituted in his place. In adjusting the instructions, President Adams himself took a personal part, as appears by a letter to the Secretary of State, where he says: "The principal points, *indeed all the points*, of the negotiation, were so minutely considered, and *approved by me and all the heads of department*, that nothing remains but to put them into form and dress, which service I pray you to perform as promptly as possible."—(*Adams's Works*, vol. 1, p. 553.) But "all the points" were three only: 1st. Indemnity for spoliations of American commerce; 2d. The unquestionable wrong of seizing American vessels for the want of papers known to French law as *rôle d'équipage;* 3d. The refusal to renew the treaty guarantee of the French West Indies. Such were the *ultimata* originally settled by the President and his Cabinet on the 4th March, 1799, and afterwards fully developed in the elaborate instructions of Mr. Pickering, dated 22d October, 1799, which, after announcing that "the conduct of the French republic would well have justified an immediate declaration of war on the part of the United States," proceeded to declare, as the first point, that the plenipotentiaries, "*at the opening af the negotiation*, will inform the French ministers that the United States expect from France, *as an indispensable condition of the treaty*, a stipulation to make to the citizens of the United States *full compensation for all losses and damages* which they shall have sustained by reason of irregular or illegal captures, or condemnation of their vessels and other property." And the instructions end as they began, by declaring as first among the *ultimata*, "that an article be inserted for establishing a board with suitable powers to hear and determine the claims of our citizens, and *binding France to pay or secure payment of the sums which shall be awarded.*"—(*French Spoliations, Ex. Doc.*, 1826, pp. 562, 575.) Mark here the positiveness of the assertion.

These instructions attest the interest of our government in these indemnities. Placed first among the *ultimata* adopted in the councils of President Adams, they were placed first in the diplomatic instructions. But there is yet other evidence of their character and amount. The Secretary of State, in a report to Congress dated January 18, 1799, after attributing them to French feeling on account of the British treaty, proceeds to characterize them in remarkable words: "Yet that treaty had been made its chief pretense for these unjust and cruel depredations on American commerce, which have brought distress on multitudes, and ruin on many of our citizens, and occasioned *a total loss of property to the United States of probably more than twenty millions of dollars.*"—(*French Spoliations, Ex. Doc.*, 1826, p. 480.) Such were the outrages for which our plenipotentiaries were to seek redress.

The directory had ceased to exist; but on reaching Paris the plenipotentiaries were cordially received by Talleyrand, the citizen minister of foreign affairs, who, without delay, presented them to the First Consul as he was about to mount for that wonderful campaign which, beginning in the passage of the Alps, ended at Marengo. Negotiations commenced at once, Joseph Bonaparte, elder brother of the First Consul, and afterward King of Spain, being at the head of the commission on the part of France. Appreciating, as they announced, "the value of time," the American plenipotentiaries,

rable *balance*," protested against the consideration of any "national" claims
ome "convenient stage of the negotiation, after it shall be seen what arrange-
rould be acceptable for the *claims of citizens*."—(*Ibid.*, p. 582.) The French
otentiaries rejoined by enforcing "national" as well as "individual" claims.—
p. 583.) The issue seemed to be made. On the one side were the "individual"
of American citizens, on the other side the "national" claims of France. The
an plenipotentiaries were not authorized to recognize the "national" claims.
ench plenipotentiaries were not authorized to recognize the "individual" claims
t a previous recognition on our part of the "national" claims. At last, after
efforts at harmony, it was officially announced that "the negotiation was at
l on the part of France," as her plenipotentiaries were constrained by the in-
ons of the First Consul "to make the acknowledgment of former treaties the
f negotiation *and the condition of compensation*."—(*Ibid.*, p. 609.) The First Con-
then on the Italian slope of the Alps, about to pounce upon the astonished
ans. Claims and counter claims were at that moment of little interest to him.
far the committee have exhibited the origin and history of the claims of the
States. The time has come to change the scene, and to exhibit those counter
which played such a part in the successive negotiations, and finally produced
ad-lock when the two powers stood face to face with antagonist claims, unable
orward, and unwilling to go backward.

COUNTER-CLAIMS OF FRANCE, THEIR ORIGIN AND HISTORY.

The counter-claims of France differ widely from the claims of American citizens.
were not "individual," but "national," being founded on alleged violations of
stipulations, assumed by the United States in return for the aid of France in
ablishment of national independence. During the protracted controversy be-
the two republics they were detailed in numerous official notes; but they were
shed by Talleyrand, with offensive skill and effect, in the very faces of our in-
plenipotentiaries, under date of March 18, 1798, when, while driving them from
he insisted "that the *priority of grievances and complaints belonged to the French*
, and that these complaints and these grievances were as real as numerous,
fore the United States had the least ground of claim."—(*French Spoliations, Ex.*
326, p. 490.) Careful inquiry enables us to see that this allegation, thus confi-
uttered, was not without a certain foundation; and here we repair to the his-
our country.

riumph with which our war of independence happily ended came tardily, after
ears of battle, suffering, and exhaustion, but it was hastened, if not assured,
generous alliance of France. From Bunker Hill to Saratoga the war was check-
th gloom, which even the surrender of Burgoyne did not suffice to dispel. Then
he dreary winter at Valley Forge, when soldiers of Washington, after treading
ws barefoot, were obliged, for want of blankets, to huddle all night by the fires,
en the stout heart of the commander-in-chief bent so far as to announce, in
letter to Congress, that "unless some great and capital change take place the
ust be inevitably reduced to one or the other of three things—starve, dissolve,
erse." But the scene was changed when the glad tidings came that France, by
treaty signed by Franklin, February 6, 1778, had bound herself to "guarantee

of dollars. But French blood, more costly than money, was shed on land and sea in the same cause, until at last the army of Cornwallis surrendered at Yorktown to the allied forces of Rochambeau and Washington, and the war closed by the recognition of our national independence. If liberty be priceless—if life be priceless—then was the aid lavished by France infinite beyond calculation.

The engagements were not all on the side of France. Beyond the gratitude due for this powerful alliance, there were express obligations solemnly assumed by the United States, not only in the treaty of alliance, but also in the treaty of amity and commerce negotiated on the same day. These obligations, constituting the consideration of the mighty contract, were of two classes: first, a guarantee, by the United States, of the possessions of France in America; and, secondly, important privileges for the armed ships of France, with a promise of American convoy to French commerce.

(1.) The terms of the guarantee are as follows: "The two parties guarantee, *mutually*, from the present time *and forever*, against all other powers, to wit: the United States to his most Christian Majesty, *the present possessions of the crown of France in America*, as well as those which it may acquire by the future treaty of peace. And his most Christian Majesty guarantees, on his part to the United States, *their liberty, sovereignty, and independence, absolute and unlimited*, as well in matters of government as commerce, and also their possessions, and the additions or conquests that their confederation may obtain during the war from any of the domains now or heretofore possessed by Great Britain in North America."—(Art. II.) To fix more precisely the sense of this article, it was further stipulated that "*in case of rupture* between France and England, the reciprocal guarantee shall have full force and effect the moment such war shall break out; or if no rupture took place then the guarantee shall not take place until the moment of the cessation of the present war between the United States and England shall have ascertained their possessions."—(*Statutes at Large*, vol. 8, p. 10.) The possessions of France in America at this date were the islands of St. Domingo, Martinique, Guadalupe, St. Lucia, St. Vincent, Tobago, Deseada, Mariegalante, St. Pierre, Miquelon, Granada, and, on the mainland, Cayenne—each and all of which the United States guaranteed to France *forever*, being a *continuing guarantee*, so far as this term of law may be applied to an international transaction, which, beginning "in case of rupture between France and England," was operative after "the cessation of the war between the United States and England," and was to continue "forever."

The terms of the "guarantee" are general, and it was "forever." Even if limited to *defensive* war, it would be difficult to say that France was not engaged in such a war, with the added incident that it was a war by a combination of kings to overcome a republic. France was alone, while the royalties of Europe gathered their forces against her. It was only after the execution of the King that England joined this array, lending to it invincible navies. But according to official avowals, it was what King George called "the atrocious act recently perpetrated at Paris," that finally prompted the part she undertook (*Ann. Reg.*, 1793; *State Papers*, 229); and her real object, in the language of Mr. Fox, was "no other than the destruction of the internal government of France." The case was unprecedented; but it is difficult to say that it did not come under the "guarantee." The *casus fœderis* had occurred. If France did not exact performance, that is no reason why our obligations should be disowned, when, at the present moment, we are trying to arrive at some appreciation of their extent. A careful examination of the treaty shows that the "guarantee" became primarily obligatory on the occurrence of a *rupture between France and England*. Nothing is said or suggested as to the character of the war whether offensive or defensive. It is enough that there was a "rupture." In such a case the "guarantee," according to the illustration of Cicero, was *tanquam gladius in vaginâ*, at the disposal of France. Our Secretary of State, even while seeking to limit its application, seems to have seen it prospectively in this light, when in his instructions of July 15, 1797, to our plenipotentiaries, Messrs. Pinckney, Marshall, and Gerry, he said, "our guarantee of the possessions of France in America will perpetually expose us to the risk and expense of war, or to disputes and questions concerning our national faith."—(*French Spoliations, Ex. Doc.*, 1826, p. 457.)

(2.) The treaty of amity and commerce contained a succession of mutual stipulations, by which the United States undertook, *first*, to protect and defend their ships of war, or convoy any or all vessels belonging to French subjects, so long as they hold the same course, "against all attacks, force, and violence, in the same manner as they ought to protect and defend" the vessels of citizens of the United States. (Arts. 6 and 7.) *Secondly*, to open their ports to French ships of war and privateers with their prizes, and to close them against those of any power at war with France, except when driven by stress of weather; and then "all proper means shall be vigorously used that they go out and retire as soon as possible." (Art. 17.) *Thirdly*, to allow French privateers "to fit their ships, to sell what they have taken, or in any other manner whatsoever to exchange their ships, merchandise, or any other lading;" but privateers in enmity with France are forbidden even to victual in ports of the United States.—(*Statutes at Large*, vol. 8, p. 13.) As if to round and complete these engagements it was further

stipulated on the part of the United States, in a consular convention which, after many perplexities of diplomacy, baffling the tried skill of Franklin, was finally signed by Mr. Jefferson, in 1788, as a postscript to the earlier treaties, that French consuls and vice-consuls in the United States should have power and jurisdiction on board French vessels in civil matters, with the entire inspection over such vessels, their crews, and the changes and substitutions there to be made.—(Art. 7, *Ibid.*, p. 112.)

Such, briefly recited, were the solemn engagements of the United States, sanctioned by treaties, as the price of independence. So long as France remained at peace with all the world, especially with Great Britain, these engagements slept unnoticed, but ready, at the first blast of war, to spring into life. At last that blast was heard, perhaps as never before in human history, echoing from capital to capital, and sounding a crusade of monarchical Europe against republican France. Of all the foreign ministers at Paris, the minister of the United States alone remained; the rest had fled.

The minister of the United States saw the danger lowering upon his own country from the obligations of existing treaties. In a letter to the Secretary of State, dated December 21, 1792 (*American State Papers, Foreign Affairs*, vol. 1, p. 347), after presenting a rapid sketch of the rising of Europe against France, he adds: "The circumstance of a war with Great Britain becomes important to us in more cases than one,' and he then alludes to the "question respecting the *guarantee* of American possessions, especially if France should attempt to defend her islands." Notoriously Gouverneur Morris did not sympathize strongly with the French republic, but, against all arguments for non-compliance with our original engagement, because the government with which they were made had ceased to exist, his sensitive nature broke forth in the "wish that all our treaties, however onerous, may be strictly fulfilled according to their true intent and meaning," which he followed in language foreign to the phrases of diplomacy, by picturing the honest nation as that which, like the honest man,

> Hath to its plighted faith and vow forever stood;
> And though it promised to its loss, yet makes that promise good.

In harmony with this exclamation of the plenipotentiary are the words of Vattel, an authority much quoted at the time, when he says: "To refuse an ally the succors due to him, without a just dispensation, is doing him an injury, and there being a natural obligation to repair the damage done by our fault, and especially by our injustice, we are bound to indemnify an ally for all the losses he may have sustained from our unjust refusal."—(*Vattel, Law of Nations*, book 3, cap. 6, section 94.)

Since the signature of the treaties times had changed, and men had changed with them. There was no bad faith on either side, in the ordinary sense of the term, but intervening events and exigencies of self-defense had driven each into unexpected inconsistencies of conduct. If on one side there was a neglect of original engagements, there was on the other an equal neglect of international duties. The tornado in mad career uprooted old landmarks, and each was striving to find new lines of reciprocal relations. Franklin, signing the "guarantee," did not expect so soon to call down upon his country the lightnings of an embattled world; nor did France, while formally conceding neutral rights on the ocean and assuring our national independence, expect so soon to become the plunderer of our commerce. But the great tragedy of the time would have been less complete if its domineering Nemesis had suffered the two republics to dwell in harmony together. They were whirled, on each side, into those questionable acts out of which have sprung the claims and counter-claims now under consideration.

A new French minister was at hand, accredited to President Washington, with fresh instructions. Differences of opinion appeared in the cabinet on the obligations of the guarantee, some holding that it expired with the French monarchy, and others that the war on which France had entered was not defensive, so that the *casus fœderis* had not arrived. After ample discussion the proclamation of neutrality was adopted, April 22, 1793, destined to become a turning point in our history. Chief Justice Marshall, whose opportunities of information were unquestionable, has let us know that the proclamation was "intended to prevent the French minister from demanding *the performance of the guarantee contained in the treaty of alliance.*" But before the proclamation reached France, orders, in direct repugnance of the treaties with the United States, were issued there for the capture and forfeiture of enemies' good on board neutral vessels, whereas it had been stipulated that free ships should make free goods, so that even if the denial of the "guarantee" was wrong, and the proclamation, according to French accusation, was "insidious," the United States were not the first to offend.

On the day of the proclamation news came by the journals that Genet, the new French minister, had landed at Charleston, where, amid the darkest days of the Revolution, Lafayette had first landed also. Full of conviction that France had only to make herself heard, and her cause would be sustained, he exalted himself conspicuously above the government. By instructions from the executive council of the French republic, dated 17th of January, 1793, he was enjoined "to penetrate profoundly the

sense of the treaties of 1778, and to watch over the articles favorable to the commerce and navigation of the United States, and to make the Americans consider engagements which might appear onerous *as the just price of the independence which the French nation had secured to them.* Not content with existing safeguards, the new minister was to negotiate a supplementary treaty, to fix more surely "the *reciprocal guarantee* of the possessions of the two powers." (*Gebhardt's American and French State Papers*, vol. 1, pp. 9 and 10.) In this spirit he commenced a turbulent career, charging offensively that the President, before knowing what the minister had to communicate from the French republic, was in a hurry "to proclaim sentiments on which decency and friendship should at least have drawn a veil"; "that he took on himself to give to our treaties arbitrary interpretations absolutely contrary to their true sense, and that he left no other indemnification to France for the blood she spilt, for the treasure she dissipated, in fighting for the independence of the United States, but the illusory advantage of bringing prizes into their ports without being able to sell them"; and "that the Secretary of War, on his communication of the wish of the Windward Islands to receive promptly some fire-arms and some cannon, which might put into a state of defense *possessions guarantied by the United States*, had the front to answer, with an ironical carelessness, that the principles established by the President did not permit him to lend so much as a pistol." (*American State Papers, Foreign Affairs*, vol. 1, pp. 173, 174.) In another letter the French minister, under date of June 8, 1793, requires that "the federal government should observe the public engagements contracted, and give to the world the example of a true neutrality, which does not consist in the cowardly abandonment of friends at the moment when danger menaces." (*French Spoliations, Ex. Doc.*, 1826, p. 193.) And in still another letter, dated June 22, 1793, he declares that "it is in the conventional compacts, taken collectively, that we ought to seek contracts of alliance and of commerce simultaneously made, if we wish to take their sense and interpret faithfully the intentions of the people who cemented them, and of the men of genius who dictated them." (*Ibid.*, p. 199.) All of which was followed by another letter, dated November 14, 1793, in which the minister says categorically: "I beg you to lay open to the President the decree and the inclosed note, and to obtain from him the earliest decision, *either as to the guarantee I have claimed the fulfillment of for our colonies*, or upon the mode of negotiation of the new treaty I was charged to propose to the United States, which would make of the two nations but one family." (*Ibid.*, p. 281.) At last Genet was dismissed, but the question of our engagements with France could not be dismissed. It was more menacing than any minister. Without it all the turbulence of Genet would have been as the idle wind.

And yet, for a while, each party seems to have practiced a certain reserve on this question. Genet stormed, but the government at home was tranquil. The "guarantee" was suspended, even in discussion. France forbore to press it, and the United States were happy to avoid the overshadowing question. The Secretary of State, in his instructions to Mr. Monroe at Paris, dated June 10, 1794, while insisting "upon compensation for the captures and spoliations of our property, and injuries to the persons of our citizens by French cruisers," was careful to add: "If the execution of the *guarantee* of the French islands by force of arms should be propounded, you will refer the republic of France to this side of the water." (*American State Papers, Foreign Affairs*, vol. 1, p. 668.) Mr. Monroe, in his correspondence, under date of September 15, 1794, says: "This republic had declined calling on us to execute the guarantee, from a spirit of magnanimity, and a strong attachment to our welfare"; but he reveals his anxiety "lest an attempt to press our case might give birth to sentiments of a different kind, and *create a disposition to call on us to execute that of the treaty of alliance.* (*Ibid.*, p. 675.) In another letter, dated November 7, 1794, describing an interview with the very able diplomatic committee, our plenipotentiary confesses the embarrassment he encountered when M. Merlin twice over asked, "Do you insist on *our* executing the treaty?" And he gives his reply, "that he was not instructed by the President to insist upon it, nor did he insist upon it"; and he avows that, in his opinion, such insistance would have been impolitic, as "exciting a disposition to press us on other points, *upon which it was better to avoid any discussion.*" (*Ibid.*, p. 87.) There is other testimony of this nature, which it is unnecessary to produce. Suffice it to say, that for some time there was a lull in our discussions with the French republic, soon to be followed by a storm.

French forbearance appears more remarkable when it is considered that the occasion for the "guarantee" had begun to be urgent. The British navy, even before Howe's great victory of June, annihilating the French fleet, swept the sea, so as to render all French possessions insecure. Tobago, Martinique, St. Domingo, St. Lucia, and Guadalupe, were lost to the republic in the spring of 1793, so that the British historian has written: "Thus, in little more than a month, the French were entirely dispossessed of their West India possessions, with hardly any loss to the victorious nation." (*Alison's History*, vol. 2, p. 396, chap. 16.) But the "guarantee" was invoked by the impatient colonists, who, without waiting the slow movement of the

French republic, appealed directly to our Congress for "divers necessary succors—of provision, ammunition, and even men," and in impassioned language pictured "England coming to take possession of French colonies in the name of a king without dominions, and North America unable to lend a helping hand against the perfidy." (*American State Papers, Foreign Affairs*, vol. 1, p. 326.) The French government at home did not at this moment share the fury of the colonists. According to Mr. Monroe, in his letter of December 2, 1794, whatever may have been their desires at a previous stage, they did not wish us now "to embark with them in the war, but would rather that we would not, from an idea that it might diminish their supplies from America; and if the point depended upon them, they would leave us to act according to our wishes"; at the same time they looked to us "for aid in the article of money." —(*Ibid.*, p. 688.) But this moderation, although a temporary waiver, was in no respect a renunciation of rights. According to Mr. Jefferson, in a letter written some months after his retirement from the cabinet, and addressed to Mr. Madison, under date of April 3, 1794, the "guarantee" was still obligatory. "As to the guarantee of the French islands," he wrote, "whatever doubt may be entertained of the moment at which we ought to interpose, yet *I have no doubt but we ought to interpose at a proper time* and declare both to England and France that the islands are to rest with France, and that we will make *common cause* with the latter for that object."—(*Jefferson's Works*, vol. 4, p. 102.) Such was American testimony at the time.

The West India islands were lost without causing an apparent smart in the republic at home; but it was different when the news came of Mr. Jay's negotiation in England. The republic was stung to the quick, and when the treaty became known did not conceal its indignant anger. Its conduct towards the United States was changed. In a formal note, dated March 11, 1796, it set forth its complaints, dwelling especially upon the "inexecution of treaties," and upon the formation of the recent treaty with Great Britain, in which the United States "knowingly and evidently sacrificed their connection with the republic."—(*American State Papers, Foreign Affairs*, vol. 1, p. 658.) In conversation with Mr. Monroe, the French minister said "that France had much cause of complaint against us, independently of our treaty with England, but that, by this treaty, ours with them was annihilated."—(*Ibid.*, p. 731.) The year closed with the recall of Mr. Monroe, and with a notice from the French government that "it will no longer recognize or receive a plenipotentiary from the United States *until after a reparation of grievances*, which the public has a right to expect." And then, adding ingratitude to the list of our offenses, it declared an equal expectation "that the successors of Columbus, Raleigh, and Penn, always proud of their liberty, will never forget *that they owe it to France.*"—(*Ibid.*, pp. 746, 747.) Meanwhile, M. Adet, the French plenipotentiary in Philadelphia, was addressing our government in similar strain, calling for the discharge of our engagements, and heaping reproaches: "The undersigned, minister plenipotentiary of the French republic, now fulfills to the Secretary of State of the United States a painful but sad duty. *He claims, in the name of American honor, in the name of the faith of treaties, the execution of that contract which assured to the United States their existence*, and which France regarded as the pledge of the most sacred union between two people the freest upon earth." And he charges the United States with "sacrificing France to her enemies, and forgetting the services that she had rendered, and throwing aside the duty of gratitude, as if ingratitude were a governmental duty."—(*Ibid.*, pp. 579, 583.) From this time forward the claims of the United States never failed to encounter the counter-claims of France.

That mutual coquetry which characterized the two governments during the mission of Mr. Monroe gave way to mutual recrimination and repulsion, where France took the lead. M. Adet was recalled from Philadelphia; Mr. Pinckney was sent away from Paris. Three fatal decrees were launched at our commerce, letting loose a new brood of spoliations destined to enlarge the claims now under consideration: first, that the republic will treat all neutrals in the same manner as they suffer the English to treat them; secondly, that the stipulations of the treaty of 1778, which concern the neutrality of the flags, were altered and suspended, in their most essential points, by the treaty with England; and thirdly, still another, enlarging the list of contraband, declaring Americans in the service of England pirates, and authorizing the seizure of all American vessels without a *rôle d'équipage*, which, notoriously, no American vessel ever carried, so that practically our flag was delivered over to the depredation of every French cruiser.

Then came that plenipotentiary triumvirate, Messrs. Pinckney, Marshall, and Gerry, who were particularly instructed by our government, while urging the multiplied claims of our citizens, already valued at "more than twenty millions of dollars," to propose "a substitute for the reciprocal guarantee"; or, "if France insists on the mutual guarantee, to aid at some modification of it"; instead of troops or ships of war, to stipulate for a moderate sum of money or quantity of provisions, at the option of France—the provisions to be delivered at our own ports, in any future *defensive* wars; the sum of money, or its value in provisions, not to exceed two hundred thousand dollars a year, during any such war."—(*American State Papers, Foreign Affairs*, vol. 2, p.

155.) Here was a recognition of the "guarantee," and a sum offered for release from its requirements. But the French republic, drunk with triumph and maddened anger, was in no mood for negotiation.

It met our plenipotentiaries with an intrigue already mentioned as unparalleled in the history of diplomacy, and, after tolerating their presence for a while at Paris, without conceding an official reception, it sent them away, disappointed and dishonored. Even in the informal relations which were established, Talleyrand, in the name of the republic, advanced and vindicated the counter-claims of France. Without dwelling at length on his argument, it is enough for the present purpose to quote certain words in a letter to Mr. Gerry, of June 15, 1799: "*The French Republic desires to be restored to the rights which the treaties with your republic confer upon it, and through these means it desires to assure yours. You claim indemnities; it equally demands them;* and this disposition, being as sincere on the part of the United States as it is on its part, will speedily remove all the difficulties."—(*French Spoliations, Ex. Doc.*, 1826, p. 529.) Thus plainly was the case stated. It was not denied that indemnities were due to the United States, but it was insisted that they were also due to France.

The two countries, once allies, were now in the most painful relations. Washington was no longer President; but his farewell address, in some of its most important parts, was evidently inspired by the counter-claims of France—especially when, from the depths of his own experience, he warned his fellow-countrymen "to steer clear of *permanent alliances* with any portion of the world, *so far as we are at liberty now to do it;*" "to have with foreign nations as little *political* connection as possible;" "to be constantly awake against the insidious wiles of foreign influence;" and then asked in well-known words, "Why quit our own to stand on foreign ground? Why, by *interweaving our destiny with that of any part of Europe*, entangle our peace and prosperity in the toils of European ambition, rivalship, interest, humor, or caprice?" In these remarkable words, where the same tone, if not the same lesson, recurs, we discern the undissembled anxieties of the hour. By the guarantee and other stipulations of 1778, our peace and prosperity had been entangled, even if our destiny had not been interwoven, in distant toils. France was urgent and brutal. War seemed impending. At last another triumvirate of plenipotentiaries, Messrs. Ellsworth, Davie, and Murray, was commissioned to attempt again the adjustment of those complications which had thus far baffled the wisdom of Washington; but compensation for the "individual" claims of American citizens was required as an indispensable condition of the treaty they were to negotiate.

Such are the counter-claims of France in origin and history. And now again we are brought to the very point where the committee had arrived in exhibiting the claims of our citizens. The plenipotentiaries on each side have met to negotiate while the First Consul has gone to Marengo. On each side they are equally tenacious. There is a dead-lock. How this was overcome belongs to the next chapter.

ADJUSTMENT BETWEEN THE UNITED STATES AND FRANCE BY THE SET-OFF AND MUTUAL RELEASE OF CLAIMS AND COUNTER-CLAIMS.

III. The rules of duty and of conduct which prevail between individuals are applicable also to nations, and the proceedings on this occasion illustrate this principle. The two parties could not agree. Clearly, then, for the sake of harmony, it was essential to postpone both claims and counter claims, with a view to future negotiation, or, if this were not done, to treat them as a set-off to each other. Such, unquestionably, would have been the action in a matter between individuals. But the history of this negotiation shows the adoption of these two modes successively. Postponement was first tried, but it gave way at last to *set-off*, by virtue of which the *international* controversy was closed. This conclusion was reached slowly and by stages, as will be seen in a simple narrative of the negotiation.

The plenipotentiaries on each side, at the outset, evinced a disposition to provide for reciprocal claims; but the claims specified by the American plenipotentiaries were those of "*citizens* of either nation," while those specified by the French plenipotentiaries were those which "either nation may make for *itself* or any of its citizens." In this difference of specification was the germ of the antagonism soon developed, especially when the American plenipotentiaries proposed to recognize the treaties and consular convention as existing only to July 7, 1798, the date of the statute by which Congress undertook to annul them. This distinction seems to have been unnecessary, for the French spoliations were clearly as much in contravention of the law of nations as of the treaties. But it furnished to the French plenipotentiaries the opportunity of declaring, under date of May 6, 1800, that "the instructions of the ministers of the French Republic have pointed out to them the treaties of alliance, friendship, and commerce, and the consular convention *as the only foundations of their negotiations;* that upon these acts has arisen the misunderstanding, and that upon these acts union and friendship should be established."—(*French Spoliations*, 1826, p. 591.) Thus were the treaties put forward by France; and our plenipotentiaries, in their communica

tion with their own government, dated May 17, 1800, testify to the persistency of their efforts when they wrote, "Our success is yet doubtful. The French think it hard to indemnify for violating engagements, *unless they can thereby be assured to the benefits of them.*"—(*Ibid.*, p. 607.) But on this point our government was inexorable.

The return of the First Consul from Italy was signalized by fresh instructions to the French plenipotentiaries, who proceeded to declare, under date of August 11, 1800 (*ibid.*, p. 616), that "the treaties which united France and the United States are not broken, and that their first proposition is to stipulate a full and entire recognition of the treaties, and the reciprocal engagements of compensations for damages resulting on both sides from their infractions." Here, again, the "individual" claims of citizens of the United States were doomed to encounter the "national" claims of France. And this communication concluded with a formal proposition in these words: "Either the ancient treaties, with the privileges resulting from priority and the stipulation of reciprocal indemnities, or a new treaty without indemnity." Thus it stood—claims and counter-claims.

The American plenipotentiaries were driven to choose between an abandonment of the negotiations and an abandonment of their instructions. It was clear, from French persistency, that the treaties, with all the counter-claims, must be recognized, or the indemnities, with all the claims, must be sacrificed. The American plenipotentiaries then took the extraordinary responsibility of a proposition which not only testifies their earnest desire for a settlement, but also their sense of pressure from France. It was nothing less than a price, in money, for a release from certain stipulations; but this was to be accomplished by "a reciprocal stipulation for *indemnities limited to the claims of individuals.*" The French plenipotentiaries, in reply, insisted upon recognition of the treaties in general terms, and also the rights of their privateers in our ports; but they offered to commute the guarantee for a sum of money. The American plenipotentiaries, hampered by the recent treaty with Great Britain, were obliged to reject this proposition; but after requiring the satisfaction of "individual" claims, they offered, in general terms, that "the former treaties should be renewed and confirmed, and have the same effect as if no misunderstanding between the two powers had occurred;" and further, that, *in consideration of eight millions of francs*, the United States shall be released from the guarantee, and also from those other articles relating to prizes which had caused so much embarrassment.—(*French Spoliations, Ex. Doc.*, 1826, pp. 615–629.) But the French plenipotentiaries assumed a new position in the following reply, under date of September 4, 1800.—(*Ibid.*, 630:)

the Ministers Plenipotentiary of the United States at Paris:

"We shall have the right to take our prizes into the ports of America.

"A commission shall regulate the indemnities which either of the two nations may owe to the citizens of the other.

"*The indemnities which shall be due by France to the citizens of the United States shall be paid by the United States. And, in return for which, France yields the exclusive privilege resulting from the 17th and 22d articles of the treaty of commerce, and from the rights of guarantee of the 11th article of the treaty of alliance.*

"BONAPARTE.
"C. P. CLARET FLEURIEU.
"ROEDERER."

Here was the first proposition of *set-off*. On the one side were the "indemnities due by France to citizens of the United States," and on the other side were the "privileges and rights" under the treaties; but it will not fail to be remarked that *the indemnities due by France were to be paid by the United States.* This proposition proceeded obviously on the idea that the counter-claims of France were at least equal in value to the claims of the United States, and that the release of the former was a sufficient consideration for the assumption of the latter; but it was entirely beyond the powers of the American plenipotentiaries, who, in their reply, pronounced it "inadmissible." It revealed, however, the desire of France to escape any payment of money, as only a few days later was openly avowed by the French plenipotentiaries, "giving as one reason the utter inability of France to pay in the situation in which she would be left by the present war."—(*Ibid.*, p. 633.) This declared inability served to explain the difficulties which the American plenipotentiaries encountered. Evidently, there was a "foregone conclusion" that no money was to be paid by France. The counter-claims furnished the obvious *substitute.* But as these were "national," while the claims of the United States were "individual," there could be no just *set-off* between them, unless the American Government assured to its citizens the payment of what was due from France, according to the proposition of the French plenipotentiaries.

The American plenipotentiaries were disheartened. There was nothing in their instructions enabling them to meet the new and unexpected turn of affairs. The treaty they had striven for seemed to elude their grasp. They have recorded in their journal, under date of September 13, 1800, that, "being now convinced that the door was per-

finally closed against all hope of obtaining indemnities with any modification of the treaties, it only remained to be determined whether, under all circumstances, it would not be expedient to attempt a *temporary arrangement*."—(*Ibid.*, p. 634.) The French plenipotentiaries did not proceed to the consideration of this proposition without insisting, "first, that a stipulation of indemnities carries with it the full and entire admission of the treaties: and, secondly, that the relinquishment of the advantages and privileges stipulated by the treaties, by means of the reciprocal relinquishment of indemnities, would prove to be the most advantageous arrangement, and also the most honorable to the two nations."—(*Ibid.*, p. 636.) Here, again, was a proposition of *set-off*, which was repeated in other different forms.

The *dead-lock* which clogged the negotiation, even at the beginning, was now complete. The American plenipotentiaries announced to their government that they "were driven to quit France," or to find some other terms of adjustment. The latter alternative was adopted, and the negotiation was renewed, with the understanding "that the parties put off to another time the discussion of the indemnities and the treaties." (*Ibid.*, p. 687.) The other questions of a general character furnished no ground of serious controversy; and the conferences proceeded tranquilly, from day to day, till September 30, 1800, when the negotiation resulted in what was entitled a "*provisional* treaty." The title revealing its temporary character was subsequently changed, at the request of the French plenipotentiaries, to that of convention, which it now bears in the statute-book.

The convention, after declaring in its first article that "there shall be a firm, inviolable, universal peace, and a true and sincere friendship, between the French Republic and the United States of America," proceeded in the next article to stipulate as follows (*Statutes at Large*, vol. 8, p. 178):

"ARTICLE II. The ministers plenipotentiary of the two parties not being able to agree at present respecting the treaty of alliance of February 6, 1778, the treaty of amity and commerce, of the same date, and the convention of 14th of November, 1788, nor upon the indemnities mutually due or claimed, the parties will negotiate further on these subjects at a convenient time, and until they may have agreed upon these points the said treaties and convention shall have no operation, and the relations of the two countries shall be regulated as follows."

By the language of this article, the disagreement of the two parties with regard to the early treaties and the indemnities mutually due or claimed is specifically declared, and it is then provided that "the *parties* will negotiate further on this subject at a convenient time," which means, of course, that hereafter, at a more auspicious moment, and with other plenipotentiaries, "the parties" will attempt to reconcile this disagreement. The whole subject, with its eight years of controversy and heart-burning, was postponed. Claims and counter-claims were left to sleep, while the spirit of peace descended upon the two countries.

The convention was signed at Morfortaine, the elegant country home of Joseph Bonaparte, and the occasion was turned into a festival, illustrated afterwards by the engraving of Piranesi, where nothing was wanting that hospitality could supply. The First Consul was there, with his associates in power; also Lafayette, the friend of our country, rescued from his Austrian dungeon and restored to France; and there also were the plenipotentiaries of both sides, and the American citizens then in France, all gathered in brilliant company to celebrate the establishment of concord between the two republics. (*Memoires du Roi Joseph*, tom. 1, p. 94.) The First Consul proposed as a toast, "The *manes* of the French and the Americans *who died on the field of battle for the independence of the New World*"; so that even at this generous festival, to grace a reconciliation founded on the postponement of claims and counter claims, the youthful chief, whose star was beginning to fill the heavens, proclaimed the undying obligations of the United States to France. This strain has been adopted also by M. Thiers, who, after referring to this convention as the first that was concluded by the consular government, says: "It was natural that the reconciliation of France with the different powers of the globe should begin with *that republic to which she had in a measure given birth*." But the great historian, while thus recording our obligations to France, shows how claims and counter-claims had been postponed. "The First Consul," he says, "had allowed the difficulties relative to the treaty of alliance, of 1778, to be adjourned; but, on the other hand, he had required the adjournment of the claims of the Americans relative to captured vessels." (*Histoire du Consulat*, tom. 2, liv. 7.) In this summary, the stipulations of the convention at the time of its signature are accurately stated. But, however imperfect, it was the first in that procession of peace, embracing Lunéville, Amiens, and the Concordat, which for a moment closed the temple of Janus, whose gates were left open by the revolution in France.

The ratification of the First Consul followed the celebration at Morfortaine, so that the convention, with its postponement of mutual claims, was definitely accepted by France. It was otherwise in the United States, where the result was not regarded with favor. The postponement of a controversy is not a settlement, and here was nothing but postponement, leaving the old cloud still hanging over the country, ready

to burst at the demand of England or of France. It was important that the early treaties, with their entangling engagements, should cease, even as a subject of future negotiation. In this spirit the Senate of the United States, when the convention was submitted for ratification, expunged the second article, providing that "the parties will negotiate further on these subjects," and limited the convention to eight years. On the 18th of February, 1801, President Adams, by proclamation countersigned by John Marshall as Secretary of State, published the convention as duly ratified, "saving and excepting the second article, which was declared to be expunged, and of no force or validity." (*Statutes at Large*, vol. 8, p. 192.) The precise effect of this proceeding was not explained, and it remained to see how it would be regarded in France.

Were the claims on France abandoned? This was the question which occupied the attention of our minister, Mr. Murray, when charged to exchange with France the ratifications of the convention as amended by the Senate. Reporting to the government at home his conference with the French plenipotentiaries, he said, "I fear that they will press an article of formal abandonment on our part, *which I shall evade.*" (*French Spoliations*, 1826, p. 666.) He hoped to keep still another chance for indemnities. On the other hand, the French plenipotentiaries feared that an unconditional suppression of the second article would leave them exposed to the claims of the United States without any chance for their counter-claims; but they did not object to a mutual abandonment of indemnities, which Mr. Murray admitted would "always be *set off* against each other." (*Ibid.*, 675.) At last the conclusion was reached, and on the 31st of July, 1801, the convention was ratified by the First Consul, with the addition by the Senate limiting it to eight years, and with the retrenchment by the Senate of the second article, the whole with a proviso by the First Consul, "THAT BY THIS RETRENCHMENT THE TWO STATES RENOUNCE THE RESPECTIVE PRETENSIONS WHICH ARE THE OBJECT OF THE SAID ARTICLE." Such were the important words of final settlement. What had been left to inference in the amendment of the American Senate was placed beyond question by this French proviso. Claims and counter-claims were not merely suspended; they were formally abandoned. The convention, with this decisive modification, was submitted to the Senate by President Jefferson, and again ratified by a vote of twenty-two yeas to four nays. On the 21st of December, 1801, it was promulgated by the President in the usual form, with the supplementary proviso, and all persons were enjoined to observe and fulfill the same, "and every clause and article thereof."

There is one aspect of this result which cannot fail to arrest attention. Here was a release of all outstanding obligations of the United States under those famous treaties with France which assured national independence. The joy with which those treaties, ancient heralds of triumph, were originally welcomed in camp and Congress has been already portrayed, and now a kindred joy prevailed when the country, anxious and sorely tried, was at last set free from their obligations, and American commerce, venturing forth again from its banishment, brought back its treasures to pour them into the lap of the people. Strange fate! There was joy at the birth of these treaties, and joy also at their death. But it was because their death had become to us, like their birth, a source of national strength and security.

Thus closed a protracted controversy, where each power was persistent to the last. Nothing could be more simple than the mode of adjustment, and nothing more equitable, *if we regard the two governments only.* The claims of each were treated as a *set-off* to the claims of the other, and *mutual releases* were interchanged, so that each, while losing what it claimed, triumphed over its adversary. But the triumph of the United States was at the expense of American citizens. Nothing is without price, and new duties originating in this triumph sprang into being.

ASSUMPTION OF CLAIMS BY THE UNITED STATES, AND SUBSTITUTION OF UNITED STATES FOR FRANCE.

IV. The natural consequence of this set-off and *mutual release* was the assumption by our government of the original obligations of France to American citizens, and its complete *substitution* for France *as the responsible debtor.* This liability was completely foreseen by the American plenipotentiaries, Messrs. Pinckney, Marshall, and Gerry. These were their words, under date of November 8, 1797: "We observed to Mr. Bellamy that none of our vessels had what the French call a *role d'equipage*, and that, *if we were to surrender all the property* which had been taken from our citizens in cases where their vessels were not furnished with such a *role, the government would be responsible to the citizens for the property so surrendered*, since it would be impossible to undertake to assert that there was any plausibility in the allegation that our treaty required a *role d'equipage.*"— (*French Spoliations, Ex. Doc.*, 1826, p. 467.) This admission, so important in this discussion, was so clearly in conformity with correct principles that it was naturally made, even without special instructions from the government.

Had the claims on each side been "national," no subsequent question could have occurred, for each would have extinguished the other in all respects forever. It was the peculiarity in this case that on one side the claims were "national," and on the other side "individual." But a *set-off* of "individual" claims against "national" claims must, of course, leave that government responsible which has appropriated the "individual" claims to this purpose. The set-off and *mutual release* is between nation and nation; but if the claims on one side are only "individual," and not "national," the nation which, *by virtue of this consideration*, is released from "national" obligations, must be *substituted* for the other nation as debtor, so that every "individual" whose claims are thus appropriated can confidently turn to it for satisfaction. On this point there can be no doubt, whether we regard it in the light of common sense, reason, duty, Constitution, or authority.

(1.) According to *common sense*, any "individual" interest appropriated to a "national" purpose must create a debt on the part of the nation, still further enhanced, if, through this appropriation, the nation is relieved from outstanding engagements already the occasion of infinite embarrassment, and hanging like a drawn sword over the future.

(2.) According to *reason*, any person entrusted with the guardianship of particular interests becomes personally responsible with regard to them, especially *if he undertakes to barter them* against other interests for which he is personally responsible. Thus, an attorney sacrificing the claims of his clients for the release of his own personal obligations becomes personally liable, and so also the trustee appropriating the trust-fund for any personal interest becomes personally liable. All this is too plain for argument, but it is applicable to a nation as to an individual. In the case now before your committee, our government was attorney to prosecute "individual" claims of citizens, and also trustee for their benefit, to watch and protect their interests, so that it was bound to all the responsibilities of attorney and trustee, absolutely incapacitated from any act of personal advantage, and compelled to regard all that it obtained, whatever form of value it might assume, whether money or release, as a trust fund for the original claimants.

(3.) *Duty*, also, in harmony with reason, enjoins upon government the protection of citizens against foreign spoliations and the prosecution of their claims to judgment. Claimants are powerless as "individuals." Their claims are effective only when adopted by the nation. This duty, so obvious on general principles, was re-enforced in the present case by the special undertaking of Mr. Jefferson, already adduced, when he announced that he "had it in charge from the President to assure the merchants of the United States concerned in foreign commerce and navigation that due attention will be paid to any injuries they may suffer on the high seas or in foreign countries." Such a duty, thus founded and thus openly assumed, could not be abandoned, on *any inducement proceeding from France*, without a corresponding responsibility toward those citizens whose interests were allowed to suffer. A waiver of national duty, especially where made for the national benefit, must entail national obligation.

(4.) The *Constitution* also plainly requires what seems so obvious to common sense, reason, and duty, when it declares that "private property shall not be taken for public use *without just compensation*." Here, "private property," to a vast amount, was taken for "public use," involving the peace and welfare of the whole country; and down to this day the sufferers are petitioning Congress for that "just compensation" solemnly promised by the Constitution.

(5.) *Public law* is also in harmony with the Constitution in this requirement. According to Vattel, the sovereign may, in the exercise of his right of eminent domain, dispose of the property, and even the person, of a subject, *by a treaty with a foreign power;* "but," says this eminent authority, "as it is for the public advantage that he thus disposes of them, the state is bound to indemnify the citizens who are sufferers by the transaction."—(*Vattel, Law of Nations*, book 4, ch. 2, § 12.) Words more applicable to the present case could not be employed.

(6.) The authority of great names confirms this liability of the United States. Among those who took part in the negotiations with France, there were none but Mr. Pickering and Chief Justice Marshall, who still lingered on the stage when the subject was finally pressed upon Congress. Mr. Pickering was Secretary of State under Washington and Adams, and drew the instructions to our plenipotentiaries. His testimony is explicit. Without giving his statement at length, it will be enough to quote these words, in a letter dated November 19, 1824. (Mr. Clayton's speech, Senate, 1846, Appendix:)

"Thus the government *bartered* the *just claim* of our merchants on France to obtain a relinquishment of the French claim for a restoration of the old treaties, especially the burdensome treaty of alliance, by which we were bound to guarantee the French territories in America. On this view of the case, it would seem *that the merchants have an equitable claim for indemnity from the United States.* * * * It follows, then, that if the relinquishment had not been made, the present French government would be respon-

sible; consequently, the relinquishment by our own government having been made in consideration that the French government relinquished its demands for a renewal of the old treaties, *then it seems clear that, as our government applied the merchants' property to buy off those old treaties, the sums so applied should be reimbursed.*"

Chief Justice Marshall, who was one of the plenipotentiaries that attempted to secure payment of these claims from France, and afterward, as Secretary of State, countersigned the proclamation of President Adams first promulgating the convention of 1800, has borne a testimony similar to that of Mr. Pickering. In conversation with Mr. Preston, of South Carolina, he said that "having been connected with the events of the period, and conversant with the circumstances under which the claims arose, *he was, from his own knowledge, satisfied that there was the strongest obligation on the government to compensate the sufferers by the French spoliations.*"—(*Ibid.*)

Mr. B. Watkins Leigh, of Virginia, testifies that the same eminent authority said in his presence, "distinctly and positively, that *the United States ought to make payment of these claims.*" This testimony made a particular impression upon Mr. Leigh, because he had been unfavorable to the claims.

The obligation of the United States may be inferred properly from the *declared justice* of the claims which had been renounced. On this point the authority is equally explicit.

Of course, in urging them upon France, earnestly and most assiduously, by successive plenipotentiaries, there was a plain adoption of them as just. But even after their abandonment they continued to be recognized as just.

Robert R. Livingston, plenipotentiary at Paris, in his correspondence with our government, shortly after the abandonment, shows his discontent. In one of his dispatches he speaks compendiously of "the payment for illegal captures, with damages and indemnities on the one side, and the renewal of the treaties of 1778 on the other, *as of equivalent value.*" And in another dispatch, under date of January 13, 1802, he says "he has always considered the sacrifices we have made of immense claims *as a dead loss.*"—(*French Spoliations*, 1826, p. 704.) But this "dead loss" fell upon "individuals," and not upon the "nation."

Mr. Madison, as Secretary of State, in his instructions to Mr. Charles Pinckney, our minister at the court of Spain, under date of February 6, 1804, upholds the justice of the claims in pregnant words, as follows (*Ibid.*, p. 795):

"The claims from which France was released were *admitted by France*, and the release was for a *valuable consideration* in a correspondent release of the United States from certain claims on them."

Thus, according to official declaration, the claims of American citizens were "admitted by France," but they were released for a *valuable consideration* which first inured to the benefit of the Government of the United States. *Equitably that valuable consideration must belong to the claimants.*

Mr. Clay, as Secretary of State under John Quincy Adams, made a report, which had the sanction of the latter, where he testifies to the justice of the claims in the following words (*Ibid.*, p. 7):

"The pretensions of the United States arose out of the spoliations under color of French authority in contravention to law and existing treaties. Those of France sprang from the treaty of alliance of the 6th of February, 1778, the treaty of amity and commerce of the same date, and the convention of the 16th November, 1788. Whatever obligations or indemnities from those sources either party had a right to demand were respectively waived and abandoned, *and the consideration which induced one party to renounce his pretensions was that of the renunciation by the other party of his pretensions.* What was the value of the obligations and indemnities so reciprocally renounced can only be matter of speculation."

Mr. Clay concludes his report by saying that the Senate, to which it is addressed, was most competent to determine how far the appropriation of the indemnities due to American citizens was "a public use of private property, within the spirit of the Constitution, and whether equitable considerations do not require some compensation to be made to the claimants."

There is one other authority of commanding character that ought not to be forgotten. It is Edward Livingston, jurist, statesman, and diplomatist, who, though not engaged in the negotiations on the subject, knew them as contemporary, and afterward, as senator, made a report, accepted ever since as an authentic statement of the whole case, in which he says:

"The committee think it sufficiently shown that the claim for indemnities was surrendered *as an equivalent* for the discharge of the United States from its heavy national obligations, and for the damages that were due for their preceding non-performance of them. If so, can there be a doubt, independent of the constitutional provision, that the sufferers are entitled to indemnity? Under that provision *is not this right converted into one that we are under the most solem obligations to satisfy?* To lessen the public expenditure is a great legislative duty; to lessen it at the expense of justice, public faith, and constitutional right, would be a crime. Conceiving that all these require

that relief should be granted to the petitioners, they beg leave to bring in a bill fo that purpose."

This list of authorities may be closed with that of the Emperor Napoleon, who a St. Helena dictated to Gourgaud the following testimony with regard to the conve tion of 1800:

"The suppression of this article (2d of the convention) at once put an end to th privileges which France had possessed by the treaty of 1778, and *annulled the ju claims which America might have made for injuries done in time of peace.* This was exactl what the First Consul had proposed to himself in fixing these two points *as equi-po derating each other.*"—(*Gourgaud's Memoirs*, vol. 2, p. 129.)

Thus the head of the French Government at the time of the convention unites wit the statesmen of our own country in conceding the justice of these claims.

To all this array of argument and authority the committee see no answer. The follow its teaching, when they adopt the conclusion, in which so many previous com mittees have already united, that these individual claims were originally just, an that the Government of the United States, having appropriated them for a "national purpose, was substituted for France as the debtor.

OBJECTIONS.

Assuming, then, the obligation of the United States, the question occurs, What sum should be applied by Congress to its liquidation? But before proceeding to this poin the committee will glance at what is urged sometimes against this obligation, so fa at least as they are aware of objections.

Objections of a preliminary character have been already considered, but there ar others which belong properly to this stage of the inquiry.

Curiously, the two main objections most often adduced answer each other flatly. I is sometimes insisted that the claims were invalid, by reason of the abnormal relation between France and the United States, anterior to the convention of 1800, pronounce to be a state of war; and then again, it is sometimes insisted that these claims wer provided for in the subsequent convention of 1803 for the purchase of Louisiana. Bu if the claims were really invalid, as has been argued, it is absurd to suppose that Franc would have provided for them; and if they were really provided for, it is equally ab surd to suppose that they were invalid. The two objections might be dismissed a equally unreasonable; but since they have been made to play a conspicuous part, ee pecially in presidential vetoes, the committee will occupy a brief moment in consider ing them.

Other objections, founded on the later convention of 1831; on the act of Congres annulling the French treaties; on the early efforts of the United States to procure sat isfaction from France, and on the alleged desperate character of the claims, will b considered in their order.

WAR DID NOT EXIST BETWEEN THE UNITED STATES AND FRANCE.

The anomalous relations between France and the United States anterior to the con vention of 1800 did not constitute a state of war so as to annul all pending claims; th contrary assertion is inconsistent with, (1,) the facts of the case; (2,) the declaration of the two parties; and, (3,) the nature of the convention.

Before considering these several topics, it may be remarked that, even if there ha been a state of war, it would not follow that all prior rights otherwise valid wer annulled, so at least as not to be revived at the close of the war. On at least one im portant occasion, the contrary has been held by our government in its negotiation with Great Britain. The provision relative to the fisheries, which appears in th treaty of 1783, was not noticed in the treaty of Ghent; and yet the United States di not hesitate to insist afterwards that, though interrupted by the war of 1812, it re mained in full force after the termination of the war. Doubtless claims which, afte being made the open cause of war, fail to be recognized in the treaty of peace, are an nulled; for the treaty is the settlement of pending controversies between the tw powers. But the claims now in question were not made the open cause even of th anomalous relations between the United States and France, and they did not fail t have such recognition in the convention terminating those relations, as to exclude al idea that they were annulled by war, or any other antecedent facts. It is not neces sary to consider the effect of war; for it is easy to establish that war did not exist.

(1.) The facts of the case are all inconsistent with war. There was no declaratio of war on either side; and still further, throughout the whole duration of the trouble the tribunals of each country were open to citizens of the other, as in times of peace so that a citizen of the United States was not an "alien enemy" in the courts of France nor a Frenchman an "alien enemy" in the courts of the United States. This fact which was presented by Mr. Clayton in his masterly discussion of the question, is o itself most suggestive, if not conclusive.

It is true that diplomatic and commercial intercourse was suspended, that the two powers armed, and that on both sides force was employed. But this painful condition of things, though naturally causing great anxiety, did not constitute war. One power may, in its own discretion, suspend diplomatic and commercial intercourse with another; it may assume all the harness of war, and it may even use force in the way of retaliation, retortion, or reprisal; but all this falls short of war, *especially when public acts and declarations show that war was not intended.* Such conduct tends to war, and, if continued, naturally ends in war. But it is not of itself that mighty transformation by which one nation, with all its people, is converted into the enemy of another nation, with all its people, so that every citizen of the one becomes the enemy of every citizen of the other, and all pending rights and contracts between them disappear, at least for a time.

If war be the extinguisher of claims, it is because, in theory, the claimant is supposed to have an opportunity for reparation by seizing the property of the enemy, wherever he can find it on the high seas. But no reprisals against France were authorized by the United States; no war on private property was permitted; so that the only principle on which war is the extinguisher of claims fails to apply.

But not even an act of war constitutes war. The two parties determine if war exists. To their public acts and mutual declarations we repair for interpretation of their conduct.

(2.) On the part of the United States the *declarations are explicit* that war did not exist, although it seemed imminent. Congress was convened in May, 1797, to deliberate on the threatening aspect of affairs, and adopt various measures of public defense, which were continued in 1798 and 1799; but in all this series of acts there is a constant and sedulous negation of the state of war. The act of May 28, 1798, after reciting that "armed vessels of France have committed depredations on the commerce of the United States, and have recently captured the vessels and property of citizens thereof on and near the coast," proceeds to authorize the seizure of any such armed vessel; but nothing is said of war. Another act, bearing date the same day, authorizes a provisional army, "*in the event of a declaration of war*, or of actual invasion of their territory by a foreign power, or of imminent danger of such invasion discovered *before the next session of Congress.*" The act of June 13, 1798, to continue in force only till the next session, and renewed July 16, 1799, for a limited term, suspended commercial relations between the two countries, under penalties of forfeiture; but such acts, however menacing, are absolutely inconsistent with an existing state of war, which of itself, without any additional act, suspends all commercial relations between the belligerent parties. The act of June 25, 1798, authorizes our merchant vessels "to subdue and capture any French armed vessel *from which an assault or other hostility shall be first made.*" The act of July 6, 1798, respecting alien enemies, begins with the words of limitation, "*Whenever there shall be a declared war* between the United States and any foreign nation." The act of July 7, 1798, declares the treaties as no longer "legally obligatory;" but if war existed, such an act would have been superfluous. The act of July 16, 1798, authorizes augmentation of the army "for and during the continuance of *the existing differences* between the United States and the French republic." The act of March 2, 1799, also authorizes augmentation of the army, "*in case war shall break out.*" Another act, passed the next day, provides that certain troops already authorized shall not be raised, "*unless war shall break out* between the United States and some European prince, people, or state." And as late as February 10, 1800, while the negotiations were proceeding, another act was passed, providing that further enlistments should be suspended, "*unless*, in the recess of Congress, and during the continuance of *the existing differences* between the United States and the French republic, *war shall break out* between the United States and the French republic." All these cumulative measures refer to war, not as actually existing, but only as a possible future contingency. Meanwhile there were "existing differences" only. And, finally, on the 14th of May, 1800, four months before the signature of the convention, and when the plenipotentiaries on each side were at a deadlock, as has been already amply shown, another act was passed, authorizing the abandonment of the military preparations set on foot in contemplation of the contingency of war. Such is a synopsis of the testimony from Congressional legislation on this point. And now, when it is considered that Congress alone, under the Constitution, has the power to declare war; that it never made any declaration of war against France, and that, throughout this whole period of trouble—in its whole series of acts—it expressly negatived the fact of war, is it not impossible to assert that, according to the understanding of our government, war actually existed? What Congress did, and what it failed to do, testify alike.

The declarations of the Executive are as explicit as the declarations of Congress. In the instructions to our plenipotentiaries at Paris, under date of October 22, 1799, the Secretary of State, after reciting the spoliations of France, says: "This conduct of the French Republic would well have justified an immediate declaration of war on the part of the United States; *but desirous of maintaining peace*, and still willing to leave open the door of reconciliation with France, *the United States contented themselves with*

preparations for defense and measures calculated to protect their commerce."—(*French Spoliations*, 1798, p. 561.) These plenipotentiaries declared to the French plenipotentiaries, under date of April 16, 1800, that "the act of Congress, *far from constituting a connection with the enemies of the republic*, did not even authorize reprisals upon merchantmen, but were restricted solely to giving safety to our own, till a moment should arrive when their sufferings could be heard and redressed."—(*Ibid.*, p. 563.) Again in the instructions to our minister in England, under date of September 30, 1800, the Secretary of State, who was none other than John Marshall, says: "The aggression of one and sometimes of another belligerent power have forced us *to contemplate and prepare for war as a probable event*."—(*Ibid.*, p. 452.) Not as an actual event already arrived, but only as a probable event. In the face of such declarations, who can say that war existed?

On the part of France the declarations are equally explicit. It is true that, on the 12th September, 1800, in conversation, the French plenipotentiaries let drop fitful words to the effect that "if the question could be determined by an indifferent nation such a tribunal would say that the present state of things was war on the side of America, and that no indemnities could be claimed."—(*Ibid.*, p. 633.) But the context shows that at that moment, in order to avoid the payment of these indemnities, the plenipotentiaries were driven to every possible subterfuge, and the whole suggestion is contrary to all the admissions of the French Government, both in the executive and legislative branches. Indeed, these very plenipotentiaries of France, in a formal communication to the American plenipotentiaries, under date of August 20, 1800, declare that "*the state of misunderstanding* which has existed for some time between France and the United States, by the acts of some agents rather than the will of the respective governments, *has not been a state of war, at least on the side of France*."—(*Ibid.*, p. 616.) We have already seen that it was not on the side of the United States. These same plenipotentiaries, under date of December 12, 1801, contented themselves with characterizing the relations of the two powers at this period as "*almost hostile*."—(*Ibid.*, p. 550.) Already, at an earlier day, Talleyrand, as minister of foreign relations, had written, under date of August 28, 1798: "France has a double motive, as a nation and as a republic, not to expose to any hazard the present existence of the United States. Therefore, it never thought of making war against them: and *every contrary supposition is an insult to common sense*."—(*Ibid.*, p. 649.) When the convention, in its final form, was laid before the legislative assembly of France, one of the French plenipotentiaries charged with its vindication announced in a speech, November 26, 1801, that "it had terminated *the misunderstanding* between France and America," which, he said, had become such "that the reconciliation should be hastened if it was desired that it *should not become very difficult*." A report was also made to the legislative assembly by M. Adet, formerly French minister to the United States, in which it is declared: "*There had not been any declaration of war*. Commissions granted by the President to attach the armed vessels of France are not to be regarded as a declaration of war. The wish of the President does not suffice to put America in a state of war. It requires a positive declaration of Congress to this effect. *None has ever existed*."—(*Code Diplomatique, par Portiez*, tom. 1, p. 39–57.) And these legislative documents, so positive in character, are introduced by the learned editor in words which fitly characterize the international relations to which they refer, when he says that "they exhibit the cause which *ruffled the harmony* of the two states." True enough. The harmony of the two states was ruffled, but war did not exist.

(3.) The terms of the convention, and the final conditions of ratification, also exclude the idea of war. Although beginning with a declaration that "there shall be a firm inviolable, and universal peace," borrowed, in precise words, from Mr. Jay's treaty with Great Britain, the convention of 1800 did not purport to be a treaty of peace nor, indeed, as first executed, did it pretend to settle the questions between the two powers, except by postponing them to "a convenient time." A war annulling claims could not be treated in this way. The American Senate testified likewise, when it limited the duration of the convention to eight years, which, had war previously existed, would have turned the convention into a truce. The First Consul testified likewise, when he added his far-reaching proviso, for which, of course, there would have been no occasion if the claims of American citizens had been annulled by war; and again he testified, in his words at St. Helena, where he speaks of this convention as having "annulled the *just claims* which America might have made for *injuries done in time of peace*."

Thus falls to the ground that objection so often urged, founded on the alleged existence of war. Strange that an objection so utterly untenable should gain a single supporter! But there is one remark which belongs to the close of this topic. Even if France had insisted that war existed, yet the United States constantly denied it at the time, both by legislative and executive acts, so that our government is obviously estopped against its recognition, even if it fails to feel the indecency of such an excuse for any further denial of justice.

THESE CLAIMS NOT EMBRACED IN THE LOUISIANA CONVENTION.

The objection that these claims were provided for in the convention of 1803, for the purchase of Louisiana, is equally untenable. It is difficult to understand how such an objection was ever made; but the history of this question shows the strange shifts of opposition, especially when without any restraint from a knowledge of the subject. The most superficial glance at the two conventions shows that they related to two different classes of claims. Those abandoned in 1800 were on account of spoliations, and were in the nature of "torts." Those protected in 1803 were "debts." When it is considered how steadfastly the French plenipotentiaries opposed the recognition of the claim for "torts" in 1800, and how the First Consul, by his positive proviso, required their renunciation, it is obviously unreasonable to assume that in 1803 they were formally recognized. This assumption becomes still more unreasonable, when it is understood that it was only at a comparatively recent period that the idea was first broached; that it is without support in the documentary history of the convention, or in any contemporary opinion; that it escaped the attention of the board of commissioners appointed under the convention, as it escaped the attention of successive Secretaries of State, and also of Congressional committees, reporting on the subject, until thus tardily it was brought forward as a last resort of opposition.

The convention of 1800, which sacrificed the claim for "torts," kept alive certain pending claims for "debts," in the following words:

"ART. V. The *debts contracted* by one of the two nations with individuals of the other, or by the individuals of one with the individuals of the other, *shall be paid*, or the payment may be prosecuted, in the same manner as if there had been no misunderstanding between the two states. *But this clause shall not extend to indemnities claimed on account of captures or confiscation.*"—(*Statutes at Large*, vol. 8, p. 180.)

It will be observed how carefully the claims for spoliation were excluded from the benefit of this provision, which is limited positively to "debts." Though apparently plain, the French Government found difficulties in the way of its execution. Vexatious delays were interposed, and "debts" were treated little better than "claims," so that our minister at Paris, Robert R. Livingston, was obliged to address the French Government, under date of March 25, 1802: "The 5th article of the treaty says, expressly, they shall be paid; but justice and good faith say it, independent of the treaty. Yet they remain unsatisfied; nor is the most distant hope as yet afforded them of when or how they will be paid."—(*French Spoliations, Ex. Doc.*, 1826, p. 714.) Such was the spirit of other correspondence. At last, by one and the same transaction, Louisiana was purchased, and these "debts" were provided for. The plenipotentiaries of the United States, Mr. Livingston and Mr. Monroe—the latter for a second time plenipotentiary—undertook to pay eighty millions of francs for the purchase, of which sixty millions were for France, and the remaining twenty millions for the payment of "debts" secured by the convention of 1800; and these terms were embodied in a treaty and two associate conventions of the same date.

The treaty contained the terms of cession. One of the conventions regulated the terms of purchase, and the other provided that "*the debts* due by France to citizens of the United States, *contracted before 30th September*, 1800, shall be paid" according to certain regulations. It will be observed that these words descriptive of the "debts" are not unlike those employed in the 5th article of the convention of 30th September, 1800.

The new convention regulating the payment of "debts" begins with a preamble, setting forth the desire of the President and of the First Consul, "*in compliance with the second and fifth articles* of the convention of 30th September, 1800, to secure the payment of the sum due by France to the citizens of the United States." From the association of these two articles, some hastily infer a purpose to revive the "claims" abandoned in the famous second article. But such a revival, instead of being "in compliance" with that article, or, according to the corresponding French words of the convention, *en execution* of that article, would be in direct contradiction of it. The allusion to the second article is obviously to carry into the Louisiana convention the original exclusion of the spoliation "claims." If any doubt could arise on this allusion, taken by itself, it would disappear when we consider that the fifth article is both *inclusive* and *exclusive*. It includes "debts contracted," which are to be paid, and it excludes "indemnities claimed on account of captures or confiscations," which are not to be paid. Thus the language of the preamble is justified, and the convention is in *compliance* with both the second and the fifth articles of the original convention.

If we examine the Louisiana convention carefully, we find that "debts" alone are provided for. The first article, as we have already seen, declares, "*the debts* due by France to the citizens of the United States, contracted before the 30th September, shall be paid according to the following regulations." The second article describes "*the debts* provided for in the preceding articles" as comprised in a conjectural note. The third article declares how "the *said debts shall be discharged by the United States*"

The fourth article more specifically defines *the debts* as follows: "It is hereby ei agreed that the preceding articles shall comprehend *no debts* but such as are citizens of the United States who have been and are yet creditors of France, *plies*, for *embargoes and prizes made at sea, in which the appeal has been properl* within the time mentioned in the convention of 30th September, 1800." The ticle explains further the prizes intended in the last article, as follows: "The ing shall apply only, 1st, to captures *of which the council of prizes shall have ord titution*, it being well understood that the claimant cannot have recourse to tl ernment of the United States otherwise than he might have had to the Govern the French Republic, and only in case of the insufficiency of captors; 2d, t mentioned in the said fifth article of the convention of 1800, the payment of wl been heretofore claimed of the actual Government of France, and for which c have a right to the protection of the United States. *The said fifth article does prehend prizes whose condemnation has been or shall be confirmed.*" Under the *firs* the class of captures is here defined. It was those only where the council of had ordered restitution, being captures not warranted by the laws of France. cases were included among "debts" because the decree of the council of prize ing restitution instantly created, on the part of the owner, a claim on the ca the property or its value; and where the captor was "insufficient," the gove assumed the debt. *And this is the only class of captures provided for in the Louisi vention.* Under the *second* head is specified "*the debts* mentioned in the fifth with an express declaration that it "does not comprehend prizes whose conden has been or shall be confirmed." Thus in every article and at every stage the tion claims are excluded from the benefit of the Louisiana convention.

Such was the contemporary conclusion of our minister at Paris, Mr. Livingsto in his letter to the French Government of April 7, 1802, said: "The fifth art pressly stipulates that *all debts* due by either government to the individual other shall be paid. But as this would also have included the *indemnities for and condemnations previously made*, and it was the intention of the contracting by the second article, to *preclude* this payment as depending on a future nego *it was necessary to except from this promise of payment all that made the subject of th article;* and that as to the payment of indemnities for embargoes in consequ the cargoes being put in requisition, or with a view to any other political which carried with it nothing hostile to the United States, no controversy ev between the plenipotentiaries of the two nations."—(*French Spoliations, Ex. Do* p. 717.)

Surely this objection may be dismissed.

THESE CLAIMS NOT EMBRACED IN THE CONVENTION OF 1831 WITH FRAN

(3.) Another objection has been started kindred to the last, also in kindre ance. It is said that these claims were embraced in the later convention of 18 France, under Louis Philippe. No mistake can be greater.

That convention opens with these words "The French Government, *in orde erate itself completely from all the reclamations preferred against it by citizens of the States* for unlawful seizures, captures, sequestrations, confiscations, or destruc their vessels, cargoes, or other property, engages to pay a sum of twenty-fi ions of francs to the Government of the United States, who shall distribute i *those entitled*, in the manner and according to the rules which it shall dete —(*Statutes at Large*, vol. 8, p. 430.)

This provision must be interpreted in the light of preceding treaties, especi that which had occupied so much attention. They are all *in pari materia*, and fore, according to a familiar rule of jurisprudence, must be taken together. convention of 1880, by the proviso of the First Consul, added at its ratificatio *ated France completely* from all liability for the claims now in question, so th cease to be valid against her. Therefore, these claimants could not be "amon *entitled*" under the later convention. The interpretation is confirmed by th ment of the French Government, and also by the judgment of our own commis under the convention. Mr. Rives, our minister at Paris, writing to Mr. Van the Secretary of State at the time, under date of February 18, 1831, says: "Fro I have been able to learn of ——— 's report, it is favorable throughout to t ciple of our claims. It excludes, however, the claims of American citizens in ture of debt, or of supplies, as being alien to the general scope of the cont between the two governments. And *also American claims of every description ori previous to the date of the Louisiana arrangement, in* 1803, *which has been invariabl by this government to be in full satisfaction of all claims then existing.*"—(*Ex. I Congress, 2d session, No.* 147, p. 165.)

Our own commissioners, sitting at Washington, reported to the Secretary of under date of December 30, 1835, that they had required every person seekin *title* himself under the convention, to show that his "claim remained unimpai

in full force against France at the date of the convention of 1831."—(*Ex. Doc.* 117, *H. of Reps.*, *24th Congress*, *1st session*, p. 4.) But the claims now in question did not come within this category. Clearly, they were not "unimpaired and in full force against France."

All this is apparent on the face; but it was demonstrated by the action of the commissioners. The experiment was made with regard to captures prior to the convention of 1800, and no less than one hundred and five cases were submitted to the board. They were all rejected. The first rejections, in point of time, were July 11, 1833, in two different cases, when we have the following entry: "Caroline, captured February 10, 1798—rejected; *the vessel having been captured before the 30th September*, 1800." A similar entry was made on the same day in the case of the Orlando, captured March 1, 1800. In the larger part of the cases that followed, the entry was simply "rejected," without any addition. It is obvious that the principle was decided in those two earliest cases. The indemnities allowed by the commissioners were mainly for captures under the decrees of Berlin, Milan, Rambouillet, and Trianon—that succession of sweeping edicts by which Napoleon at the height of power enforced his continental system. There were also four awards for captures after the signature of the convention of 1800, and before its ratification. As such cases, occurring during this intermediate period, were plainly saved from the renunciation of the convention of 1800 (article 4), and yet were not included in the convention of 1803, they came naturally within the scope of the convention of 1831. The claims now in question had no such advantage. Renounced in 1800, they were not adopted in 1831. But ceasing to be claims upon France, they have become claims upon the United States.

THESE CLAIMS NOT AFFECTED BY THE ACT OF CONGRESS ANNULLING THE FRENCH TREATIES.

(4.) Then it is said that the French treaties were annulled by act of Congress, so as to render the set-off and mutual release a mere form, and nothing else. This objection proceeds on ignorance of the question.

It is true that the United States, by act of Congress July 7, 1798, declared "the treaties heretofore concluded with France *no longer obligatory*.—(*Statutes at Large*, vol. 1, p. 578.) But the question still remained, What was the effect of this act? It did not purport to be retrospective, so that all obligations under the treaties at that date were fixed, whether on the part of the United States or on the part of France. Therefore France, besides her constant liability under the law of nations, was liable also under the treaties for all depredations anterior to this date, and the United States were liable for all non-performance of obligations anterior to this date. Assuming that the treaties were annulled, it is evident that the claims of each under them, anterior to this date, were not in any way affected, so that there was still, even under the treaties, an occasion for set-off and mutual release.

The depredations upon our commerce were not merely in violation of ancient treaties, but also of the law of nations, so that even if the treaties were annulled, yet the law of nations would remain with its obligations and remedies. Our plenipotentiaries were instructed to obtain compensation for captures and condemnations contrary to the law of nations generally received in Europe, or to stipulations of treaty, so long as the latter "remained in force." On the other hand, as the treaties "remained in force" until July 7, 1798, our country was unquestionably liable to France for indemnities to that day. Before that day the West India Islands were lost. Before that day we excluded French privateers and their prizes from our ports. All proper damages for these things must have entered into the account of France against us. Therefore the annulling act of Congress could only affect the *quantum* of consideration on both sides at the occasion of set-off and mutual release, and not the fact of consideration.

But it is more than doubtful if the annulling act could have the effect attributed to it. Can one of two parties render a contract void by mere declaration to that effect? In a case between two individuals this could not be done. Could it be done in a case between two individuals this could not be done. Could it be done in a case between two nations? Mr. Jefferson thought not. At least there is a report from him on another occasion which completely covers this case. These are his words: "It is desirable in many instances to exchange mutual advantages by legislative acts rather than by treaty; because the powers, though understood to be in consideration of each other, and, therefore, greatly respected, yet, when they become too inconvenient, can be dropped at the will of either party; *whereas stipulations by treaty are forever irrevocable but by joint consent, let a change of circumstances render them ever so burdensome.*" —(*Wait's State Papers*, vol. 10, p. 73.) Chief Justice Marshall quotes another opinion where a treaty was declared to be not only the law of the land, but a law of a superior order, "because it not only repeals past laws, *but cannot itself be repealed by future ones.*"—(*Marshall's Life of Washington*, vol. 5, p. 274, note 2, Appendix.) Such authority would seem sufficient to settle this question, especially re-enforced as it doubt-

less is by the law of nations; for it must not be forgotten that the obligation of treati is determined by international law rather than by municipal law.

Even supposing that the act of Congress succeeded in annulling the treaties, effect as regards France, was not so much to discharge her claims as to make th perfect. In plain terms, it was a final determination on our part not to fulfill t treaties. Perhaps the circumstances of the time rendered it necessary; but your co mittee cannot fail to observe, that, according to all principles of justice, and t established usage of nations, this very determination consummated the right France to the indemnities claimed by her for non-observane of the treaties. On part there was no longer any pretense to fulfill the treaties, so that this very act Congress, which is cited to excuse us, may be cited more properly to condemn us.

Whatever may be the law of this case, even assuming that, according to gc opinions, the treaties were annulled on the 7th July, 1798, it is perfectly clear that the negotiation of 1800 they were treated by France as obligatory. On these founded her counter claims. The narrative already presented shows her persisten As often as our claims were urged, her counter claims were pressed in reply. I why did our plenipotentiaries ask the renunciation of the treaties by France if the of Congress had already annulled them? Why, further, did they offer a large sum money for release from their obligations? Whatever may have been the effect of t annulling act in the judgment of the American plenipotentiaries, it is clear that tl regarded the treaties as a cloud to be removed. And it is equally clear that t French plenipotentiaries to the last maintained the obligations of the treaties. T instructions of the First Consul, before entering upon his Italian campaign, were make "the acknowledgment of former treaties the basis of negotiation and the c dition of compensation."—(*French Spoliation, Ex. Doc.* 1826, p. 609.) It was t finality of these instructions which at the time caused the *dead lock* already describ Thus, on the part of the United States, the obligation of the treaties was denied sl sequent to July 7, 1798, while on the part of France it was affirmed as an indispen ble condition down to the negotiation.

Therefore, on the part of the United States, there were claims under the treat anterior to July 7, 1798, and also under the law of nations generally. On the part France there were counter claims under the treaties down to the negotiation. Ea side was persistent. Neither would yield. The time for compromise arrived. Th came the *set-off and mutual release.* The transaction was between two nations, bu was identical in character with transactions which often occur between two in viduals.

EARLY PERSISTENCY TO SECURE INDEMNITIES FROM FRANCE NO GROUND OF EXE TION FROM PRESENT LIABILITY.

(5.) Then the persistent efforts of our government, anterior to the convention 1800, are sometimes brought forward as sufficient reason for present indifferen This, also, is a mistake.

It is true that our government exerted itself much. Considering its comparati immaturity, it deserves credit for the courage and determination with which it th labored. But it must not be forgotten that in all it did, even for the recovery of demnities, it acted under the duties and instincts of national defense. Our commer was despoiled, to the detriment of American citizens. But this grievance, whi went on assuming larger proportions, proceeded directly from the *hostile spirit* France, aroused by an alleged infraction of national obligations on our part, so tl behind the question of indemnities rose always the question of self-defense. Fra made reprisals because the United States refused compliance with solemn treati and, as is usual in such cases, individual citizens were the sufferers. Defending t interests of these individual citizens, the country itself was defended. To obt these interests—especially without securing an abandonment of French pretension would have been an abandonment of the country, leaving it the dishonored victim untold exactions without end. If this be correct—and your committee do not see h it can be controverted—there can be no boast of extraordinary efforts in the origi support of these indemnities. All these efforts, whatever form they assumed, in s cessive remonstrances and negotiations, were in the performance of a patriotic du simple as the filial devotion of Cordelia, which was "according to her bond—n more, nor less."

And now the fidelity of that early day, when duty was done, is the apology for fidelity to-day, when duty is left undone; and those patriotic efforts are vouched a title to present exemption. Because the government was zealous for indemniti when France was responsible, *argal* it may be indifferent now, when the United Sta are substituted for France. Or has it come to this—that it is right to be zealous pressing a foreign government, but not right to be zealous against ourselves, *w substituted for that foreign government*, as in the present case? But, beyond the n

conception of public duty apparent in this whole pretense, it forgets the true state of the question. Here, again, we are brought to the convention of 1800, when both claims and counter-claims were adjusted. If the claims on our side had been deliberately rejected, or if our government had been compelled to withdraw, as in a case of nonsuit, the case might have been otherwise. There was no rejection of the claims, and no nonsuit of our government; but, as has been so fully shown, a *set-off and mutual release* by which each party accorded to its adversary just as much as it claimed for itself. So far as the two governments were concerned, claims and counter-claims were extinguished, and neither could look to the other; but it did not follow that American citizens, whose "individual" claims had been appropriated to extinguish "national" obligations, were cut off from appeal to their own government. On the contrary, the very zeal expressed for these claimants while they looked to France is still due in their behalf, now that, by the action of their own government, they must look to their country.

It is sometimes said in sarcasm that it is easy to be generous at the expense of another; but in this case, now that this responsibility has been transferred to our own country, it is not a question of generosity, but of debt. The property of these claimants is actually in the hands of our government, like assets paid over and deposited "for whomsoever it may concern"; or, to use a more pungent illustration, like certain property to which there can be no valid title against the original owner. Stolen goods, for instance, may be followed wherever they can be found. But the vessels of these claimants were stolen by France, and at last they are found in the hands of our own government. Will the government undertake to hold them against the real owners? For nearly ten years it denounced the conduct of France as an unpardonable outrage. How, then, can it profit by this conduct, especially at the expense of its own citizens? If the receiver is as bad as the original offender, how, then, can the government expect to escape that indignant condemnation it fastened upon France? Least of all, how can any early persistency to recover this property excuse the government for detaining it now?

THESE CLAIMS NEVER DESPERATE, SO AS TO BE OF NO VALUE.

(6.) Kindred to the last objection is the assertion that the claims were intrinsically desperate, so as to be of no value; an objection which is humiliating as false.

It is humiliating, because it assumes that claims solemnly declared to be just, both by the executive and legislative branches of government—the former by successive acts of diplomacy and the latter by successive acts of Congress—were of "no value." If this were true, then was our government, when it sued these claims, guilty of national *barratry*, for which it would deserve to be thrown over the bar of nations. It was a stirrer of false suits. Such an imputation is an impeachment of the national character to be scorned.

But it is false also. The claims were never "desperate," except so far as they were doomed to meet the counter-claims of France. On the contrary, they were intrinsically just, and their justice was often admitted even by France, who advanced against them her own pretensions under the treaties. And when the *set-off and mutual release* occurred, the validity of these claims was solemnly recognized; nay more, they were paid to the United States. Such is the inconsistency of objectors, insisting that claims thus recognized and paid were so far "desperate" as to be of "no value," when they were of sufficient value to form the vast consideration of release from immeasurable national obligations. If you would find a measure of value for the American claims, you must look to the counter-claims of France, not forgetting that all the vehemence with which these were sustained testifies unmistakably to the claims now in question.

If we may judge from our national history, there is no reason to doubt that these claims, if they had not been released by our government, would have been fully satisfied by France afterward. It is in the nature of claims on foreign powers to seem desperate. Such was the case, as is well remembered, with the claims on Denmark, Spain, and Naples; but all these have been paid. *No just claim by the American Government can be desperate.* What claims could seem more desperate than those under the arbitrary, wide-spreading edicts of Napoleon Bonaparte in his pride of place? But President Jackson, when Louis Philippe had become King, made an appeal, as he expresses it in his message, "to the justice and magnanimity of regenerated France" (*Message, December* 7, 1830), and even these claims, accruing under a government which had ceased to exist, were satisfied. The claims now in question had as much intrinsic equity, and they were more intimately associated with the national sentiments. Asserting that they would have been paid, the committee are sustained not only by the reason of the case, but by the judgment of the disinterested historian of our country, who concludes his account of the convention of 1800, and its final ratification with the proviso of the First Consul, in these words:

"Had the treaty been ratified in its original shape, the sufferers by the spoliations

of the French *might, perhaps, before now, have obtained that indemnity from the French Government which they have ever since been asking from their own, but which has hitherto been unjustly withheld.*"—(*Hildreth's History of the United States*, 2d series, vol. 2, p. 400.)

There is no statute of limitations between nations, so that these claims would have been as valid against France in 1831 as they unquestionably were in 1800. A nation like the United States has only "to bide its time," and the day of justice will surely come. Indeed, President Jackson, when dwelling on the negotiations with France in 1831, bore his testimony to the vitality of American claims on foreign powers when he said that the new convention would be an "encouragement for perseverance in the demands of justice by a new proof that, if steadily pursued, they will be listened to, and an admonition will be offered to those powers, if any, which may be inclined to evade them, *that they will never be abandoned.*"—(*Message of December* 6, 1831.) These words of Andrew Jackson are a sufficient answer to the present objection.

ALL OBJECTIONS ANSWERED.

Such are the objections to the assumption of these claims by the United States. The committee believe that they have all been answered, so that the claims stand above impeachment or question, as a debt to be liquidated and paid. It only remains to consider what sum should be appropriated for this purpose.

JUST COMPENSATION.

The "just compensation" to be paid by the United States may be regarded, according to Mr. Edward Livingston, in his classical report, in two lights: *first*, the value of the advantages accruing to the United States at the expense of these claimants; and, *secondly*, the actual loss sustained by these claimants. Neither is proposed as an absolute measure on the present occasion. A glance at each will enable us to arrive, by approximation, at a proper result.

VALUE OF ADVANTAGES SECURED TO THE UNITED STATES.

It is impossible to estimate in money the advantages accruing to the United States. Beyond the great boon of assured peace, under which our commerce, no longer exposed to spoliation, at once put forth more than its original life, two specific objects were gained: *first*, an exemption from all outstanding engagements and liabilities of every nature under the early treaties with France; and, *secondly*, the establishment of a new convention, which, while rejecting much-debated claims and counter-claims, provided positive advantages to the United States, among which was that payment of "debts" subsequently assured by the Louisiana convention.

If the United States could be held responsible to France for the treasure lavished on national independence, in pursuance of these original treaties, there would be an item of fourteen hundred and forty millions of francs, or about two hundred and eighty millions of dollars. Of course, the brave lives sacrificed in our cause cannot be estimated in any account; but France did not forget them. Even amidst the congratulations at Morfortaine, in honor of the convention, the First Consul reminded the joyous company of the sacrifice. Beyond the toast which he proposed in honor of those who fell in battle for the independence of the New World, there is no record of what was said on that occasion by the successful general of France; but old Homer, in one of his most touching passages, had already spoken for him:

> Life is not to be bought with heaps of gold;
> Nor all Apollo's Pythian treasures hold
> Or Troy once held in peace and pride of sway,
> Can bribe the poor possession of a day.
> Lost herds and treasures we by arms regain,
> And steeds unrivaled on the dusty plain;
> But from our lips the vital spirit fled,
> Returns no more to wake the silent dead.

Under the sod of America, and under the waves of the Atlantic, Frenchmen were sleeping whose lives had been given to the support of our cause. If France did not forget them at the celebration of that convention, let it be spoken in her honor; but we cannot forget them as we try to state the great account between our two countries. Their swords, if flung into the scales, would symbolize the counter-claims of France.

But how estimate the value of release from the "guarantee," retrospectively and prospectively, as well on account of past failures as future liabilities? It was often urged that the "guarantee" bound the United States to the support of France only in the event of a *defensive war*, and that the war in which she had been engaged was not of this character. But it is more than doubtful if either of these propositions can be maintained. The "guarantee" on its face has no limitation to defensive war. And

even if it had such a limitation, who will venture to say that the war in which France drove back her multitudinous assailants, re-enforced by the navies of England, was not defensive? If France did not at once require the execution of the "guarantee," it was none the less a vital obligation.

That our government appreciated the embarrassments, if not the obligations, which the "guarantee" entailed, has been already shown by the committee. But there are certain words which may be fitly quoted again. In the instructions of our Secretary of State to the first triumvirate of plenipotentiaries at Paris, under date of July 15, 1797, it is admitted that "our guarantee of the possessions of France in America will perpetually expose us to the risk and expense of war, or to disputes and questions concerning our national faith."—(*French Spoliations, Ex. Doc.*, 1826, p. 45.) On this account the plenipotentiaries were instructed to obtain a release from it, and they were authorized "on the part of the United States, instead of troops or ships of war, to stipulate for a moderate sum of money or a quantity of provisions, at the option of France, not to exceed two hundred thousand dollars a year." This was moderate; but it was a recognition of the guarantee and of its practical value. But the next triumvirate, at the negotiation of 1800, offered more. They proposed to buy out the guarantee by a payment of five millions of francs, or one million of dollars. It is needless to say that both these offers were rejected.

It would be as difficult to measure in money the value of that guarantee, retrospectively and prospectively, as to measure in money our obligations to France in the assurance of national independence. The liabilities for a failure prior to 1800, if pressed, would not have been inconsiderable. But had the guarantee continued so as to constrain the United States throughout the long war that followed, ending at Waterloo, what arithmetic can calculate the damages that would have ensued? Nay, more; if, at the present moment, any such guarantee bound us to France, who would not feel that it was an obligation from which we must be released at any price?

Besides the obligations of "guarantee," there were other engagements with regard to French armed ships in our ports which had already proved most onerous. Here, also, there was an alleged failure on our part; and there was also the prospect of infinite embarrassment, if not of open war, unless these obligations were canceled. To keep them would cause collision with England; not to keep them would cause collision with France. Our plenipotentiaries offered, in the negotiation of 1800, three millions of francs for the release from these obligations. This moderate offer was rejected also.

France continued stubborn; insisting upon the recognition of the ancient treaties, with all the consequent indemnities. At last, by the propositions of the 5th September, 1800, already exhibited by your committee, a measure of value was affixed to our engagements and liabilities. France undertook to release us from all these on condition that we would pay the indemnities due to our citizens, thus treating claims and counter-claims as equivalent in value. It was required positively that "the indemnities which shall be due by France to the citizens of the United States *shall be paid by the United States.*"—(*French Spoliations, Ex. Doc.*, 1825, p. 630.) In consideration of a release from the treaties, the United States were to assume the obligations of France to American claimants. How this proposition, rejected at first, eventually prevailed in the convention, and its successive amendments, has been already explained. It is now mentioned only to show the value of these engagements and liabilities from which we were released.

THE ACTUAL LOSSES OF THE CLAIMANTS.

2. The practical question remains, What were the actual losses of the claimants? Here the evidence is precise and full.

Our own government has already, when pressing these claims upon France, given an official estimate of their value. On one occasion it put them at fifteen million dollars.—(*Wait's American State Papers*, vol. 3, p. 497.) On another occasion it put them at twenty million dollars. The latter estmate is found in a report from the Secretary of State to Congress, under date of January 18, 1799, where it speaks of "unjust and cruel depredations on American commerce, which have brought distress on multitudes and ruin on many of our citizens, and occasioned a *total loss of property to the United States of probably more than twenty millions of dollars.*"—(*French Spoliations, Ex. Doc.*, 1826, p. 480.) Inquiry into the losses confirms this statement. From the evidence presented to committees in former years, and now belonging to history, it appears that there were *eight hundred and ninety-eight vessels* included in the claims released to France. This is apparent from an examination of certain details.

The American vessels despoiled by France between 1792, the outbreak of the European war, and July 31, 1801, when the convention of 1800, with its proviso, was ratified by Napoleon Bonaparte, amount to two thousand and ninety, embracing as follows: first, vessels captured by the French; secondly, vessels captured by the French and

Spaniards conjointly; thirdly, vessels detained by embargo at Bordeaux. The foll ing list shows how the account now stands:

List of vessels in different classes despoiled by France.

Whole number		2
From which deduct as follows:		
1. Vessels paid for by special decrees of France		14
2. Vessels paid for under the convention of 1803, viz:		
For embargoes	103	
For contracts	270	
For prizes, under restoration	6	
		379
3. Vessels rejected under convention of 1803 for contracts on supplies	102	
Vessels under restitution, and rejected	26	
		128
4. Vessels paid for by Spain under the Florida treaty of 1819		173
5. Vessels rejected under Florida treaty		191
6. Vessels paid for under convention with France of July 4, 1831, being for captures between the signing and ratification of the convention of 1800		4
7. Vessels rejected for want of merit, neglect of claimants, loss of proof, and other contingencies, say		503
		1

Thus we are brought again to the *eight hundred and ninety-eight vessels* which v bartered to France.

To arrive at the value of these vessels, the committee have been driven to look at value affixed to vessels under the conventions with other powers for the paymer similar claims. Here is a list allowed by different powers, with the average of e vessel:

	Vessels.	Averag
Great Britain	217	$47, 6
Spain	40	8, 1
France	357	10, 5
Spain	320	15, 6
Denmark	112	5, 9
France	361	12, 9
Naples	51	37, 7
Spain	20	30, 0
Mexico	64	31, 6
Colombia	5	11, 4
	1, 547	221, 7

From this list it appears that Mexico has paid as high an average as $31,000 for e vessel; Naples, $37,000; and Great Britain, $47,000. But the general averag $14,336.

If the vessels despoiled by France were estimated according to the highest aver especially according to the average of the vessels despoiled contemporaneously Great Britain, the sum total of value would swell to a large amount, being no than $42,206,000. Adopting the general average of the whole list, the *eight hun and ninety-eight* vessels amounted in value to $12,572,000.

This estimate, which at first view seems inconsistent with the statement of our g ernment, in 1799, fixing the losses at twenty millions, is substantially sustained by statement, even putting the value of the vessels at an average of $14,000; for the of vessels despoiled by France shows that there were certain classes which may p erly be deducted. Here is the estimate, with the deductions:

Original estimate of 1799		$20, 000
Deduct therefrom—		
1. Vessels paid for by France, fifty-two cases, at $14,000	$728, 000	
2. Debts paid under convention of 1803	3, 750, 000	
3. French spoliations paid for under treaty with Spain of 1819	2, 845, 619	
		7, 323
Sum total, after deductions		12, 676

If to this estimate interest be added, even at the smallest rate, the losses of these sufferers will assume much larger proportions. More than sixty years have run their course since the United States, by a public act and for a valuable consideration, became the debtor of these claimants. From the beginning the country has enjoyed without price all the "national" benefits originally secured at their expense, as part of the national capital with its bountiful income, while these claimants have been shut out from all use of their property, and all profit therefrom. If interest be due on any national debt, it is difficult to see why it is not due here.

Never was a case stronger. Nor does there seem to be any doubt with regard to the rule. According to the best authorities, whether publicists or courts, interest is justly due. Though swelling the national liability enormously, it is none the less an item in the case.

Here it must be borne in mind that these claims are under the law of nations. As such the rule of damages is in the law of nations and not in municipal law. Therefore the committee resort to the former law. Among all the authorities none has spoken more fully and clearly than Rutherforth; nor is there any one whose words on this point are oftener cited. Here is the rule:

"In estimating the damages which any one has sustained, when such things as he has a perfect right to are unjustly taken from him, or withholden, or intercepted, we are to consider not only the value of the thing itself, but the value likewise of the fruits or profits that might have arisen from it. He who is the owner of the thing, is likewise the owner of such fruits or profits. So that it is as properly a damage to be deprived of them as it is to be deprived of the thing itself."—*Institutes, Lib.* 1, *ch.* 17, *sec.* 5.

Grotius says substantially the same (Grotius, Jura Belli ac Pacis, Lib. ii., cap. 17, § 4). So does Vattel, who declares that claimants may obtain "what is due, *together with interest and damages.*" (Vattel, Law of Nations, Book II, chap. 18, § 342.) And Wheaton copies Vattel (Wheaton, Elements of Inter. Law, p. 341). The Supreme Court of the United States gives the same rule with simplicity when it declares:

"The prime cost or value of property lost, and, in cases of injury, the diminution in value by reason of the injury, *with interest thereon*, affords the true rule of estimating damages in such cases."—*The Amiable Nancy*, 3 Wheaton, R., 546.

Mr. Justice Story makes it simpler still:

"The proper measure of damages, in cases of illegal capture, is the prime value and interest to the day of the judgment."—*The Lively*, 1 Gallison R., 315.

Such is the law of interest applicable to these claims, and the committee refer to it now as illustrating the accumulated losses which await satisfaction at the hands of Congress.

RECOMMENDATIONS OF THE COMMITTEE.

3. The committee, impressed by the original justice of these claims and the present obligation of the United States, do not hesitate to recommend their liquidation and payment at an early day, as they would recommend the discharge of a national debt. While setting forth the unanswerable evidence of their value, they content themselves with the recommendation made many years ago, and repeated by successive committees of both houses of Congress, limiting the appropriation to a sum not exceeding five million dollars, without interest, to be distributed by a board of commissioners *pro rata* among the claimants, according to the provisions of the bill reported herewith. The proposed limitation is a departure from strict justice, but it is a part of the additional sacrifice which seems to have been expected by Congress from these long-suffering claimants.

In deference to the Secretary of the Treasury, who, when consulted on the subject, objected to the creation of a stock for this special purpose, as has been provided in former bills, it is now proposed that the money shall be paid whenever Congress shall make an appropriation therefor.

By positive description the bill is made to cover claims for illegal captures and condemnations prior to July 31, 1801, the date of the final ratification of the convention. But, by positive words of exclusion, it is provided that the bill shall not cover claims originally embraced in the Louisiana convention of 1803; in the treaty with Spain of 22d February, 1819; or in the convention with France of July 4, 1831; so that, in point of fact, the bill is carefully limited to those original claims, which, after being postponed by the second article of the convention of 1800, were, at its final ratification, definitely renounced by the United States, in consideration of equivalent renunciations from France.

CONCLUSION.

The committee have now finished the review which, in the discharge of public service, they were called to make. Approaching a much-vexed question without prejudice, they have striven to consider it with candor, in the hope of ascertaining and ex-

hibiting the requirements of duty. The conclusion they have been led to ad harmony with so many previous committees of both houses, and also with Co itself, which has twice enacted a law for the satisfaction of these claims, is no mitted to the judgment of the Senate.

How the committee have reached this conclusion will be seen by a final gla the field which has been traversed. Putting aside the three preliminary object these claims, (1) that they are ancient and stale; (2) that they have passed in hands of speculators; and (3) that they should be postponed on account of th ent condition of public affairs, the committee have considered in order four pri topics: *First*, the claims of American citizens in France, as they appear in the l of the times; *secondly*, the counter-claims of France, as they, too, appear in t tory of the times; *thirdly*, how the "individual" claims of American citizens we rificed to procure a release of the "national" claims of France by a proceeding nature of *set-off and mutual release;* and, *fourthly*, how the United States, for a va consideration, *assumed* the obligations of France, so as to become completely r sible therefor. Not content with showing affirmatively the merits of the clai the committee next examined carefully all known objections to the asserted re bility of the United States, establishing negatively: (1) that the relations be France and the United States were at no time such as to constitute a state c invalidating the claims; (2) that these claims were not embraced in the conv for the purchase of Louisiana; (3) that they were not embraced in the later c tions of 1831; (4) that the alleged annulling of the French treaties by act of Co did not affect these claims; (5) that the early efforts of our government with F for the satisfaction of these claims, can furnish no ground of exemption from p liability; and (6) that the claims, at the time of their abandonment, were no perate, so as to be of no value.

With the removal of all known objections, the way was open to consider the of "just compensation" under three different heads: (1) the advantages secu the United States by the sacrifice of these claimants; (2) the actual losses of claimants; and (3) the final recommendations of the committee.

Such is the whole case in its divisions and subdivisions. There is one ref which belongs naturally to the close. These claims have survived several gener entwining themselves each year with the national history. Meanwhile the rep for whose advantage they were sacrified, has outgrown the puny condition c early day, when its commerce was the prey of France, and when even the sacre for independence was left unpaid. These claimants have been called to rema glorious transformation, by which the weak has become strong, and the poor b come rich; with glistening eye they have followed the flag of the country as carried successfully in every sea; with sympathetic heart they have heard the of the country sounded with honor in every land; and now they joyfully witn unexampled resources with which it upholds the national cause against an unexa rebellion; but these claimants have been called to observe especially how, fou years, unchecked by hinderances, the national government labored successfull foreign powers to secure justice for despoiled citizens, until all nations—Great B Spain, Denmark, Naples, Holland, Mexico, Colombia, Peru, and Chili—have y to persistent negotiations, and even France has paid indemnities to our citiz spoliations subsequent to these very claims; all this history these claimant observed with pride. But how can they forbear to exclaim at the sacrifice th been required of them—that they alone, the pioneers of our commercial flag, ar pelled "in suing long to bide," while a part of the debt for national independ cast upon their shoulders, and the whole country enjoys priceless benefits at th pense! Well may these disappointed suitors, hurt by unfeeling indifference t extensive losses, and worn with infinite delay, cry out in bitterness of heart, us back our vessels." But this cannot be done. It only remains that Congress pay for them.

EXHIBIT D.

NOTES OF A HEARING GIVEN TO MR. WILLIAM GRAY, OF BOSTON, BY THE COMMITTEE ON FOREIGN AFFAIRS OF THE HOUSE OF REPRESENTATIVES, ON THE SUBJECT OF THE FRENCH SPOLIATIONS CLAIMS.

WASHINGTON, D. C., *March* 17, 1882.

Mr. GRAY said: Mr. Chairman and gentlemen, I thank the committee for the opportunity which it has given me of presenting the claims which I represent, under the class of "French spoliations prior to 1800." It is a matter of some embarrassment to address a committee on a subject, the evidence of which is all on record in the volumes which the committee has on the shelves; but a sense of private and public duty constrains me to accept the opportunity which the committee has been kind enough to offer me.

Between the years 1792 and 1815, from the time when Bonaparte came into power until he was driven from power, three classes of claims against the French government arose on the part of American citizens. These three classes were distinct in their character, and I ask the attention of the committee while I briefly state them

The first class was what is commonly known as "spoliations prior to 1800." They were strictly spoliations on American commerce under decrees made by the French Government contrary to law, and for which our government claimed recompense from time to time until the year 1800, when the convention of September 30, 1800, was made; but it was not ratified until July 31, 1801. These are called the "French spoliations prior to 1800." That is the first class. I refer to the other classes only that they may be dismissed from the minds of the committee, or that the committee may get them distinctly separate from the class on behalf of which I address you.

The second class was for debts, not spoliations, recognized by the French Government as due to American citizens. They were debts of which a schedule is annexed to the convention of 1803, commonly called the treaty of Louisiana. That schedule gives the amounts, the names of the parties, the consideration for which the debts were due, &c. They all appear on the record printed by Congress. These debts also included some seizures made by the French which the French tribunals had released as not being subject to confiscation under their decrees. The French, therefore, admitted that these should be paid. They were strictly debts, not spoliations.

The third class was for spoliations on American commerce after the 31st of July, 1801, of precisely the same character as the spoliations prior to 1800, so called. As to the two latter classes, France long ago indemnified the citizens of the United States to the acceptance of our government. On the purchase of Louisiana, the agreement was that 80,000,000 francs should be paid by the United States for the cession of all the rights of France to that territory, which was a complete title, she having previously acquired the rights of Spain. Of that 80,000,000 francs 60,000,000 was to be paid to France, and it was paid by the Government of the United States. Twenty million francs, or about $4,000,000 of it, was to be distributed to citizens of the United States for the debts due from France to our citizens, debts enumerated in this schedule annexed to the treaty. No person looking at the evidence can claim for a moment that that money was to be applied to pay anything else except debts of the character to which I have alluded. These were fully satisfied, and that 20,000,000 of francs was long ago distributed to citizens of the United States.

The second (the third class in order of time) was the class of spoliations subsequent to 1801. By the treaty made by General Jackson in 1831 France agreed to pay 25,000,000 francs to indemnify the United States for spoliations upon her commerce after the 31st of July, 1801. Some of you, gentlemen, I am sure, are old enough to remember the excitement in this country when, in 1833, France refused to perform that treaty, pleading her inability to pay $5,000,000; and you will recollect the decision of General Jackson, in which, with the utmost courtesy of language, he appealed to a restored and regenerated France to fulfill her obligations. But, between the lines, the alternative was presented of payment or war. France paid; and our citizens have received that indemnity at the hands of our government for spoliations committed after the 31st of July, 1801. France so far performed all her duties as to the debts which she owed to our citizens, and as to spoliations upon our commerce, after the 31st of July, 1801. The remaining class (which is the class on whose behalf I speak here to-day) consists of spoliations prior to 1800, usually so called because the convention of 30th of September, 1800, disposed of them also, although it was not ratified until 31st of July, 1801.

These spoliations, Mr. Chairman and gentlemen, were upon American commerce—on American commerce in its infancy, it is true, but on American commerce which had carried us through the Revolution by its support, which never wavered in sustaining the government, and which to-day stands before you only to ask for remu-

neration for the losses and sacrifices of which this country long ago received the benefit. When a paper was once brought to Abraham Lincoln providing for the payment of a major of the Army, he wrote on the back of it, "Did the government accept his services? if so, let him be paid. The country cannot afford not to pay for services rendered in its employment." The spoliations before 1800 stand somewhat on this general ground. From 1792, the British and French being at war, and we keeping our neutrality in the firm hands of Washington, these two countries passed decrees to seize upon the neutral commerce of the United States. The British carried our vessels into their ports under orders in council, and the French, under her decrees, confiscated them through her tribunals. Both nations were in distress for want of provisions, and they laid their hands on whatever came within their reach. Our government always said that the rights of neutrals should be respected and preserved. Mr. Jefferson, in 1797, when Secretary of State, sent a circular to the merchants of the United States notifying them to send evidence to the department at Washington in order that proper reclamation might be made upon the foreign governments which had encroached upon our commerce. These papers are to-day, I trust and believe, in the files of the department. That course was pursued in regard to foreign nations. The treaty of Mr. Jay in 1794, under which Great Britain paid between ten and eleven million dollars, settled her share of these spoliations. That sum was distributed to our citizens. In succeeding years Spain, on the purchase of Florida, paid $5,000,000 to our citizens through the government of the United States, as a part of the consideration for the purchase of Florida. Later still Denmark and Naples, the Two Sicilies, paid their shares of those spoliations; and every foreign aggressor has been compelled by our government to do justice to our citizens. Here the question comes, why has not France paid the claims for spoliations prior to 1800? My answer is, she has paid them, to the acceptance of our government. Our government to-day holds that sum of money, or its equivalent, which belongs to private citizens. On that theory I appear before you, and I propose to state briefly the position which I assume.

It is often said that these claims are held by speculators. Now, it so happens that, having been born, and having lived in a region of country where I have been well acquainted with the commerce of the country, I know, of my own knowledge, that the great mass of the claims that are held to-day in New England belongs to the original claimants. Within the past month I have had come to me from various directions appeals by letter and by person to do what I might to procure the payment of these claims from the government. I am the paid agent of nobody. I stand here as the representative of the estate of William Gray; I have never represented at any time, and do not now represent, a single other claimant. One-fourth of that estate belongs to the assignees of one of the sons of William Gray, who became unfortunate in business, and it will go to pay his debts, but will not be enough to discharge them He is long since dead. The other three-fourths of the estate belong to fourteen grandchildren and great grandchildren of the original claimant. That is the condition of things which runs all through New England. There has been no such thing as a sale or purchase of any of these claims that I know anything about.

It is said that these claims are held largely by insurance companies. I have a statement here made in 1843, showing that 18 insurance companies were all that had any claims of this character. Out of 956 claimants, 18 of them were insurance companies. The assertion has also been made that British capital built up these corporations, and that these corporations are the persistent applicants for relief at the doors of Congress. A more gratuitous charge was never made, let it come from what source it may. Being in Philadelphia yesterday, where I was accidentally detained, I called at one of the insurance offices and told them that this charge had been made. I said, "Can you tell me who were the original proprietors of this company before 1800? Was the company owned by British capitalists, or how was it owned? They brought out the original subscription book showing that $600,000 of capital stock ($400,000 being paid up) had been subscribed by 671 persons, making an average of $894 of stock to each person. Two gentlemen were present, and in running through the list of original subscribers they said, "These men were all citizens of Pennsylvania; they were all residents of Philadelphia, and the charter granted by the legislature of Pennsylvania was to American citizens." These claims prior to 1800 were the subject of constant negotiation from 1793 down to 1800. They were the subject of discussion at Washington, in France, and everywhere by the representatives of our government, and of foreign governments.

Now, to go back to the cardinal point of this whole matter. The XIth article of the alliance of February 6, 1778, was one of mutual guarantee on the part of the United States and of France—on the part of France to guarantee the sovereignty and independence of the United States, and on the part of the United States to guarantee the protection of France in all territory which she then owned, or might acquire in North America by any future treaty of peace which might follow the war then existing between France and Great Britain. France fulfilled her guaranty by a series of

acts which led to the surrender of Cornwallis at Yorktown to the combined forces of France and the United States, under Rochambeau and Washington. And France claimed the performance of our guarantee. They were mutual guarantees, one for the consideration of the other. Washington's neutrality proclamation was issued. It was supported by the country at large, and by none more so than by the merchants of the land. It maintained the neutrality of the United States. France was constantly requiring the performance of this guarantee while we, on our part, were declining to execute it. On our part we were making claims for the spoliations on our commerce prior to 1800. France conceded the justice of those claims, but said "we will not pay them unless you perform your guarantee." There came the discussion between the two governments. They did not for a long time agree. John Marshall, afterwards Chief Justice, was one of the members of the first commission which attempted to negotiate a treaty with France. That commission claimed the payment of the indemnities to which I have now referred. France met our commissioners with a claim for the performance of the guarantee by the United States of the XIth article of the treaty of alliance of 1778. The commissioners of France and the United States separated without agreement.

A second commission was sent out to discuss this same question. That commission, after long negotiations, made the convention of September 30, 1800, which is the basis on which we rest our claim against the United States Government to-day. Whatever Washington did was approved by the whole country. There is no truth whatever in the charge that any movement of these claimants is an impeachment of the integrity of Washington. He is far above anything of that kind, and we are far above anything like it. But that treaty stands, and in that convention these commissioners on both sides agreed on all points except one. The question was, what should be done with the XIth article of the treaty of 1778? France said "We will pay the claims which you ask provided you will execute your guarantees." Our commissioners said "We have no authority to agree that." "Then," said France, "we will not pay," and there they were at issue.

The negotiations continued for some time. The treaty was sent home to Washington. It was submitted to the Senate of the United States. One of the articles (the IId article) provided that the discussion of this question about reciprocal rights and obligations should be postponed to a convenient season, but all other matters were adjusted. That treaty was amended in the Senate by striking out the IId article, as the Senate did not wish to postpone until a future day the adjustment of those two points in controversy. The Senate said to France, "Strike out that IId article, and we will agree to the treaty." The treaty was sent back to France, and France said, "No; we will not agree to strike out the IId article." The United States then continued negotiations, and they went on from that time until 1801. By reference to the correspondence, which is all to be found in the books, it will be seen that the American commissioners all the way through said "France will do nothing unless you execute your guarantees, but she is willing to release on both sides." France said to the United States, "Do you take care of the indemnities due to your citizens, and we will release you from your guarantees under the XIth article of the treaty of 1778." In one of the notes sent by the French commissioners to the American commissioners, there is a distinct proposition that the United States shall pay her own citizens the indemnities for spoliations recognized to be due by France, and that France would release the United States from the performance of her treaty stipulations. After some time the papers were returned, and Bonaparte, who was then First Consul (in 1801), assented to it on condition that the mutual claims of the two parties under the XIth article of the treaty of alliance should be mutually released.

Mr. ORTH. That was a note added to the treaty, was it?

Mr. GRAY. It stood in this way: It was declared by Bonaparte, and was sent home by the commissioners to our government, as the condition on which France would accept the treaty. It does not appear in the treaty itself. It is not a foot note to it, as a distinguished Sena or from Ohio said it was in a discussion in the Senate. As Mr. Frelinghuysen, the present Secretary of State, intimated in that discussion, it was as much a part of the treaty as if it had been inserted in it. Without that provision the treaty would never have been approved by France or the United States. Without the mutual release of the respective claims of both sides the treaty never could have been ratified. The treaty was sent back, with this note, by our commissioners, and the Senate of the United States declared the treaty fully ratified. That was in December, 1801, and it was immediately promulgated by Mr. Jefferson, then President, as a treaty ratified between France and the United States on the subjects at issue between them.

Now on that statement I take two positions, and on these two positions I maintain that our case is impregnable, regardless of any collateral questions. The first position is that France, at the time of the execution and ratification of this convention, was liable to citizens of the United States for spoliations on American commerce, which liability she herself admitted. The evidence is beyond all question of the recognition by France of the validity of these claims, on all the rules of justice or of international law.

The other question to which I ask the attention of this committee, and which after all is the crucial question in this whole subject (for, like all other subjects, there is generally a pivot on which every decision must ultimately turn), is that the Government of the United States assumed the debts of its own citizens when she released France from them. I know that it has been said in debate in the Senate that diplomatists are versed in the want of veracity. I know that there is a member of this committee who knows something of diplomacy, and I do not think that he will sit still and admit the truth of that aspersion on American diplomatists. The claimants in this case believe in the veracity of their negotiators. They believe in John Marshall; they believe in James Madison; they believe in Timothy Pickering; they believe in all of the proceedings to which they can point upon the records as maintaining the honesty and validity of their claims. Our government, acting by virtue of its sovereign power (and the claimants have never criticised that action), released France from an obligation which she admitted, to pay for spoliations on American commerce. That cannot be denied. There was no other power on earth that could have released France from this obligation, and no claim is made on France to-day, and no claim can be made upon her in this matter.

Our government assumed these obligations, and for what? In order to procure a release from her own treaty obligations which she had made in the hour of her extreme peril in 1778, and from which it was absolutely necessary for her peace and security that she should be released. Now, in private life in the affairs of business and of men, I do not think that any fair-minded person will deny that this mutuality points the respective parties to the performance of the respective obligations which it imposed. I know no reason why the Government of the United States should be exempt from that honesty which is required from every private citizen in the performance of his contracts. I know that it has been stated that these claimants are dead; that this money will not go to them or their representatives; that the present claimants cannot find their proofs; and various things of that sort. These statements are unworthy of any member who represents the people in either branch of Congress. If he can find it in himself to say that on fair and legitimate evidence he comes to one consideration or the other no honest mind can justly criticise him; but to bring in collateral statements of this kind which are unfounded in truth, and to make assertions without evidence, tending to throw discredit on these claims, is not becoming.

Another great point of criticism has been made against these claimants—that we are persistent claimants. We should not esteem ourselves worthy of our lineage if, believing that we had a just claim, we failed to present it. What have we done? We have presented petitions to Congress over and over again. More than three thousand petitions have been presented by these claimants, and which are on file in Washington. It is said that these claimants ought to be put down. The Senator from Ohio said that they had not yet reached the public treasury, and that he hoped to God they never would. He also said that when this matter was before the Senate the best thing that the Senate could do would be to put it to sleep forever. Sir, these claimants cannot be put to sleep. They may die one after another, but their representatives will live. They believe that they have an honest claim. They are not to be deterred by the introduction of any collateral issues. All that they desire is a careful and patient hearing, and they have entire confidence in the justice of their cause and in the righteousness of their attitude.

Mr. WILSON. Has there been any ascertainment of those claims prior to 1800?

Mr. GRAY. There has been no action about them, because that was impossible. They could not be ascertained in the sense of your question without some judgment being made. But estimates have been made from time to time. I have seen estimates putting the amount at from $10,000,000 to $20,000,000.

Mr. DUNNELL. Does that include interest?

Mr. GRAY. No, sir; principal alone. My grandfather's estate has claims to the amount of $333,000, without interest. I suppose that that is the largest claim held by any one estate in the country. I suppose that the whole amount of the claims may be somewhere about $10,000,000; but that is mere guess work. A great number of the claimants have come to me lately and they have said, "We cannot prove our claims, we have not the papers to do so." I have said to them, "Very well, I know you cannot; but in the State Department in Washington there is a large mass of papers which were sent there at the request of Mr. Jefferson, when he was Secretary of State, to establish the claims against France Our government will send abroad and get the decrees of all the French tribunals on the subject, and with the decrees and the papers in the State Department I suppose that nine-tenths of the claims can be proved." I have at home a trunk filled with papers in regard to the claims of my grandfather.

The CHAIRMAN. I understand from you that the gross amount of these claims would be about $10,000,000?

Mr. GRAY. That is mere conjecture. I think that Mr. Sumner in his report put the amount at $15,000,000. The range of estimates that I have heard is between $10,000,000 and $20,000,000.

Mr. WALKER. All the bills on the subject limit the appropriation to $5,000,000.

Mr. GRAY. I know that and the claimants make no criticism on that fact. They do make a ciriticism when it is said by a Senator in debate that "*these people*" offer to take $5,000,000, while the chairman of the Senate Committee on Foreign Relations stated the amount due them to be $20,000,000.

Mr. WILSON. I supposed that some action had been taken by the two governments to ascertain these claims.

Mr. GRAY. I think not. If any such action has been taken, it has escaped my notice. I do not think that there has ever been any ascertainment of these claims. The ascertainment which has been had would apply to the other two classes. In the treaty after 1800, France paid $5,000,000, and that gave to the claims which were actually proved about 60 per cent. principal without interest. Suppose that $5,000,000 be appropriated for these claims. That, under my estimate, would give about 60 per cent. of the principal, and if an appropriation of $10,000,000 be made, that would give probably the whole of the claim of the principal. That is my own individual judgment.

Mr. RICE. How would these claims be proved and liquidated?

Mr. GRAY. I suppose just as all other claims against foreign governments have been proved and liquidated, by commissioners.

Mr. KASSON. Will you state again the date of the treaty and the article releasing the United States from its guarantee under treaty of alliance?

Mr. GRAY. The date of the original treaty of alliance is February 6, 1778. When the treaty of September 30, 1800, was presented to the Senate, the Senate, on the 3d of February, 1801, adopted a resolution consenting to and advising the ratification of that convention, providing the IId article were expunged and the following article added or inserted: "It is agreed that the present convention shall be in force for the term of eight years from the time of the exchange of the ratifications." Bonaparte, the First Consul, in the name of the French people, consented on the 31st of July, 1801, to accept, ratify, and confirm the above convention, with the addition importing that the convention shall be in force for the space of eight years, and with the retrenchment of the IId article; "provided that by this retrenchment the two states renounce the respective pretensions which are the subject of the said article." These ratifications having been exchanged at Paris on the 31st of July, 1801, were again submitted to the Senate of the United States, which, on the 19th of December, 1801, declared the convention fully ratified, and returned it to the President for promulgation, and it was promulgated by the President's proclamation of December 21, 1801.

Mr. KASSON. Is there any other ground for the allegation that the United States Government assumed the spoliation claims than that conditional note of ratification by Bonaparte?

Mr. GRAY. I should answer that question by saying that that is to be considered with all the negotiations which accompany it.

Mr. KASSON. I want simply to get the point, so that if there be an article in any treaty or convention that shows it, we may be able to turn to it immediately; and, if not, that we may know that it is to be gathered from correspondence only. I want that fact known.

Mr. GRAY. It is to be gathered from the correspondence.

Mr. KASSON. What we want to get at is if there be any act of the United States Government, legislative or executive, in connection with these treaties which shows that our government gave France to understand that we assumed the spoliation claims.

Mr. GRAY. I know of none, sir.

Mr. KASSON. Then where we should look for that obligation, which now becomes one of honor, is in the correspondence which led to it?

Mr. GRAY. Yes; and to the acts of the parties and their declarations and statements in relation to it. That is entirely correct; and I ask to refer in this connection to the statement by Bonaparte at St. Helena, reported by Gourgand, that "the suppression of the second article of the convention of 1800 at once put an end to the privileges which France had possessed by the treaty of 1778, and annulled the just claims that America might have made for injuries done in time of peace."

EXHIBIT E.

List of reports of committees.

Number.	Where reported.	By whom reported.	Committee.	Date.	Bills and report
1	House	Mr. Giles (*a*)	Select	April 22, 1802	
2	House	Mr. Marion (*b*)	Select	Feb. 18, 1807	
3	Senate	Mr. Roberts	Claims	Mar. 3, 1818	Adverse, No. 124
4	House	Mr. Russell	Foreign Affairs	Jan. 31, 1822	Adverse, No. 32
5	House	Mr. Forsyth	Foreign Affairs	Mar. 25, 1824	Adverse, No. 94
6	Senate	Mr. Holmes	Select	Feb. 8, 1827	Favorable, No. 48
7	House	Mr. E. Everett	Foreign Affairs	May 21, 1828	Favorable, No. 26
8	Senate	Mr. Chambers	Select	May 24, 1828	Favorable, bill 206
9	Senate	Mr. Chambers	Select	Feb. 11, 1829	Favorable, bill 76
10	House	Mr. E. Everett	Foreign Affairs	Feb. 16, 1829	Favorable, bill 82
11	Senate	Mr. E. Livingston	Select	Feb. 22, 1830	Favorable, bill 103
12	Senate	Mr. E. Livingston	Select	Dec. 21, 1830	Favorable, bill 31
13	Senate	Mr. E. Livingston	Select	Jan. 14, 1831	Favorable, bill 32
14	Senate	Mr. Webster (*c*)	Select	Dec. 10, 1834	Favorable, bill 5
15	Senate	Mr. Wilkins	Select	Dec. 20, 1831	Favorable, bill 9
16	House	Mr. E. Everett	Foreign Affairs	Feb. 21, 1835	Favorable
16	House	Mr. Cambreling	Foreign Affairs	Minority adverse statement	
17	House	Mr. Howard	Foreign Affairs	Jan. 29, 1838	Favorable, bill 445
18	House	Mr. Cushing (*d*)		Mar. 31, 1838	Favorable stateme
19	House	Mr. Cushing	Foreign Affairs	April 4, 1840	Favorable
19	House	Mr. Pickens	Foreign Affairs	Minority adverse statement	
20	House	Mr. Cushing	Foreign Affairs	Dec. 9, 1841	Favorable, bill 57 (
21	Senate	Mr. Choate	Foreign Relations	Jan. 28, 1842	Favorable, bill 148
22	Senate	Mr. Archer	Foreign Relations	Jan. 5, 1843	Favorable, bill 64
23	House	Mr. C. J. Ingersoll	Foreign Affairs	April 17, 1844	Favorable, bill 339
24	Senate	Mr. Choate	Foreign Relations	May 29, 1844	Favorable, bill 180
25	Senate	Mr. Choate (*e*)	Foreign Relations	Dec. 23, 1844	Favorable, bill 47
26	Senate	Mr. Clayton (*f*)	Select	Feb. 2, 1846	Favorable, bill 68
27	House	Mr. Tru. Smith (*g*)	Foreign Affairs	July 16, 1846	Favorable, bill 68
28	Senate	Mr. Morehead	Select	Feb. 10, 1847	Favorable, bill 156
29	House	Mr. Tru. Smith	Foreign Affairs	Jan. 4, 1848	Favorable, bill 21
30	Senate	Mr. Tru. Smith	Select	Feb. 5, 1850	Favorable, bill 101
31	House	Mr. Buel	Foreign Affairs	June 14 1850	Favorable, bill 318
32	Senate	Mr. Tru. Smith (*h*)	Select	Jan. 24, 1851	Favorable, bill 101
33	Senate	Mr. Bradbury	Select	Jan. 14, 1852	Favorable, bill 64
34	Senate	Mr. Hamlin	Select	Feb. 15, 1854	Favorable, bill 36
35	House	Mr. Bayly (*i*)	Foreign Affairs	Jan. 4, 1855	Favorable, bill 117
36	House	Mr. Pennington	Foreign Affairs	Mar. 3, 1857	Favorable, bill 865
37	Senate	Mr. Crittenden (*j*)	Select	Feb. 4, 1858	Favorable, bill 45
38	House	Mr. Clingman	Foreign Affairs	May 5, 1858	Favorable, bill 552
39	House	Mr. Royce	Foreign Affairs	Mar. 29, 1860	Favorable, bill 259
40	Senate	Mr. Crittenden	Select	June 11, 1860	Favorable, bill 428
41	Senate	Mr. Sumner	Foreign Relations	Jan. 13, 1862	Favorable. bill 114
42	Senate	Mr. Sumner	Foreign Relations	Jan. 20, 1863	Favorable, bill 114
43	Senate	Mr. Sumner	Foreign Relations	Jan. 17, 1870	Favorable, bill 35

(*a*) Favorable statement of facts, without coming to any conclusion.
(*b*) Favorable, including and adopting Mr. Giles's report of April 22, 1802.
(*c*) This bill was voted by the Senate, February 3, 1835; yeas 25, nays 20.
(*d*) Individual, by consent of the House.
(*e*) This bill was ordered to be engrossed and read a third time, February 10, 1845, by yeas 15, but not reached.
(*f*) This bill was voted by the Senate on the 9th of June, 1846; yeas 27, nays 23.
(*g*) This bill (being Mr. Clayton's bill as voted by the Senate) was voted by the House by nays 87. It thus passed both houses, and was vetoed by President Polk as a Senate bill; an veto the Senate voted yeas 27, nays 15—not two-thirds.
(*h*) This bill was voted by the Senate; yeas 30, nays 26.
(*i*) This bill was voted by the House, yeas 111, nays 77, and was voted by the Senate, Feb 1855, yeas 28, nays 17, and was vetoed by President Pierce as a House bill; and the House vot veto was yeas 113, nays 86—not two-thirds—so the bill was lost.
(*j*) This bill (Mr. Crittenden's, No. 45) was voted by the Senate on the 10th January, 1859; nays 20.
(*k*) This bill, 445, contains all preceding reports reprinted in it.

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47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1068.

LIGHTS ON THE ATCHAFALAYA RIVER, LOUISIANA.

APRIL 18, 1882.—Referred to the Committee on Appropriations and ordered to be printed.

Mr. WARD, from the Committee on Commerce, submitted the following

REPORT:

[To accompany bill H. R. 2923.]

The Committee on Commerce, to whom was referred the bill (H. R. 2923) "extending the operations of the Light-House Board over the Atchafalaya River and its tributaries in Louisiana," beg leave to report the same with an amendment, to add at the end of the bill the words, "and the sum of thirteen thousand dollars is hereby appropriated for such purpose," and to recommend that the same so amended do pass.

The recommendation of the committee is based upon the following letter from the Light-House Board:

TREASURY DEPARTMENT,
OFFICE OF THE LIGHT-HOUSE BOARD,
Washington, March 7, 1882.

SIR: Respectfully referring to department letter (E. W. C.) of February 13, transmitting, with other matters, for the views of the Light-House Board thereon H. R. bill No. 2923, providing for the extension of the board's operations over the Atchafalaya River and its tributaries in Louisiana, this bill having been referred to the department for information by the Committee on Commerce of the House of Representatives, I have the honor to state that the board, at its session on March 6, considered the matter, and decided that the proposed extension of its operations would be of great benefit to commerce and navigation, and approved of the object of the bill.

The estimated cost of establishing the necessary lights, and of their maintenance for one year, is thirteen thousand dollars ($13,000).

The letter of transmittal of the Committee on Commerce, and the bill referred to, are herewith returned.

Very respectfully,

JOHN RODGERS,
Rear-Admiral, U. S. N., Chairman.

The honorable the SECRETARY OF THE TREASURY.

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47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1069.

EXPENSES OF THE LAST ILLNESS AND BURIAL OF PRESIDENT GARFIELD.

APRIL 19, 1882.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. TAYLOR, from the Select Committee to audit the expenses of the late President James A. Garfield's illness and burial, submitted the following

REPORT:

[To accompany bill H. R. 5889.]

The Special Committee raised by the House for the purpose of auditing the expenses growing out of the illness and burial of the late President Garfield, and for considering what, if any, allowances, privileges, or pensions should be granted his widow or family, having had said subject under consideration, beg leave to submit the following report:

That, after giving such attention to the subject as its importance demands, your committee are of the opinion that Congress may properly and legally assume the expenses attendant upon the illness and burial of the late President, upon the ground that he was stricken down while he was and because he was in the discharge of his duties as the chief executive officer of the nation and commander-in-chief of the Army and Navy. Congress would also be justified in making provision for such payment, regarding it as an allowance to the family, made to cover extraordinary outlays occasioned by public misfortune.

We do not enter into an argument, however, to prove that that may be done which the people expect and desire shall be done.

Having arrived at this conclusion, your committee proceeded to examine the various claims presented to them, which fell within the scope of their authority, and, as they believe, have done so with industry and care.

Many claims have been rejected, not all of which were without merit; and such as were recognized as more or less meritorious, and still rejected, were so treated because their character failed to bring them within the scope of the investigation ordered by the House. Others have been allowed in part only; and all have been rigidly scrutinized, so much so that your committee feel authorized to state that those claims recommend for payment are correct and just. Reference is now had to claims other than those of surgeons, attendants, and employés, to which claims we shall hereafter call attention.

Most of the claims now under consideration grew out of the efforts to reduce the temperature of the sick-room, or are for board of the family and attendants at Elberon, for surgical and medical supplies, for undertakers' bills, and for transportation of the Marine Band to and from Cleveland to attend the funeral, and their subsistence on the way.

The various items are so numerous that detailed explanations of all will not be expected.

The bills for the materials and labor for constructing the apparatus for reducing the temperature of the room were furnished to us by the Navy Department, as were also the bills for the transportation and subsistence of the Marine Band, and are vouched for by that department, the work having been done under its direction in the one case, and the contract made by it in the other. The bills for board, hauling baggage, &c., at Elberon, the undertakers' bills, and lesser bills have passed the scrutiny of Brig. Gen. D. G. Swaim, judge-advocate-general of the Army, and of Col. A. F. Rockwell, U. S. A., who were on the ground and conversant with the facts. The bills for medical and surgical supplies were made under written orders of Dr. Bliss, and on comparison with the orders have been found correct.

Mr. Ralph S. Jennings, of Baltimore, by request of Dr. Bliss, brought machinery at considerable expense to him.

The Pennsylvania Company made large outlays in making railroad track, preparing cars for removing the President to Elberon, and in running trains in accomplishment of that object, as well as in furnishing other transportation, aggregating a very large sum, for which it files no claim and refuses all recompense.

The duty devolving upon your committee of fixing the compensation of the physicians and surgeons attending upon the late President is so difficult that they cannot even hope to have their action meet with universal favor. Indeed, the compensation fixed in this report cannot be said to be wholly satisfactory in the aggregate, or in its distribution, to a single member of the committee uniting in making it. Some of us think the sum too large, others too small; one would change its direction in one particular, while others would apportion it still differently.

The obvious necessity that a conclusion should be reached has compelled divergent views to an agreement of action, combining the average judgment of those acquiescing in the result. It will be found much easier to criticise that result than to present a different one not liable to serious objections.

It may be an interesting process for those who have not yet seriously considered the subject, but who have, as they suppose, more or less fixed opinions in regard to it, to watch the changing operations of their own minds as they contemplate the matter in its different aspects as the investigation proceeds. Possibly glimpses of the difficulties environing your committee may be had in that way.

On the 2d day of July, 1881, the President of the United States, then recently inducted into the great office to which he had been elected, was shot down in a railway depot in the heart of the city of Washington, in the presence of members of his cabinet and of citizens. His wound was supposed to be mortal, and the supposition was only too well founded. The news, instantly carried everywhere, was received with amazement as well as with infinite sorrow by the people. Fears, ill-defined and shapeless, of other impending calamities arose. Soon it was known that the President lived, and it was hoped that his hurt was not necessarily mortal; that eminent surgeons were in attendance upon him at his home, and that it was thought he might recover. From that moment hope and fear alternated till he died at Elberon on the 19th day of the following September.

The occasion was a momentous one, and the surgeons acted during all that time under circumstances of overwhelming responsibility. It is possible that they felt that responsibility overmuch, for the people demanded

of them the recovery of their President, day and night, in a voice which they continually heard, and to which they responded with anxious and ceaseless devotion never surpassed, the proofs of which given your committee are so striking and abundant that the wonder is that they remained physically and mentally able to continue to the end. In fact, in several instances, perhaps in all, the strength of the surgeons and other attendants gave way, and their health became impaired; but only in the case of a single attendant did they abate one jot or tittle of their patient. watchful care and skill, nor did that one desist from his attentions and helpfulness, till utterly prostrated by disease brought on by his labors.

Upon what rule and by what evidence shall compensation for such services be adjusted? No rule exists ready-made, and no evidence can assist us. We have called upon eminent surgeons far and near to aid us, but their efforts, as must needs be, are without success. All, surgeons and laymen, say, "Deal fairly, liberally, as becomes a just and generous people"; but they do not define to us those terms.

The ordinary schedule of fees or rewards, if one exists, as we think it does not, covering the more important cases of surgery, must give way to a case of extraordinary duration. We find, for instance, that several of these surgeons, by reason of their standing in their profession, their reputation and scientific attainments, frequently receive as much as $1,000 per day; but that rate of payment could not be expected to continue in one case for weeks and months.

From all professions and from reason we may learn that no rule can be made for compensating services themselves away out of all rule; and we have been compelled to use our judgment in the best way possible, without the aid of experience, or aid from the opinions of others. We have taken into consideration the probable value of the time occupied by the gentlemen if it had been employed in their ordinary professional work, the possible loss of business by the neglect of their practice, their inability to resume their practice by reason of wasted strength and lost health, where such inability existed, the grave responsibilities, the assiduous care, untiring devotion, and long-continued services of the surgeons and attendants; but we have instituted no comparisons, in our own minds even, as to the professional reputation and skill of the gentlemen employed. We have no means of doing so, nor are we competent to decide such questions; besides, we apprehend such attempt might be invidious, harmful, not comporting with the dignity of the government for which we act, and, possibly, hurtful to the feelings of those whom we would tenderly shield. We treat each as equal to any other, and only make distinctions in the amounts awarded because of differences of opportunities and exclusiveness of services of each. Thus, in awarding to Dr. Bliss more than to any other, we do not imply that his skill or fidelity was greater than that of the rest, but the fact is recognized that his was the highest responsibility; that his time was more completely absorbed, and his other practice more fully abandoned, he being constantly in attendance on the President each day and every night, from the beginning to the end, while Drs. Agnew and Hamilton, alternating with each other in attendance, were able to partially keep up their practice in their respective cities, though, counting the time occupied in traveling, each spent more than half his time. Dr. Reyburn also, living and practicing in Washington, though in attendance more than either Dr. Agnew or Dr. Hamilton, was not so cut off from his practice as they were, and he was, therefore, able to, and did, better sus-

tain his practice; and for this reason do we fix the sum to be paid him less than that to be paid them, respectively.

Dr. Boynton stands on a different footing still. He had none of the responsibilities of the case and treatment, but he was more than a nurse, and on account of his acquaintance with the physical constitution and peculiarities of the patient, his close relation to the President and his family, the confidence justly bestowed on him by them, his presence, advice, and services were necessary and invaluable.

Dr. Susan Edson, though a physician of experience and reputation, acted only as nurse and friend, but her services were rendered faithfully and continually, with such zeal and self-denial that she was unable to fully, or to a great extent, resume her practice for several months after her services ceased, and it is quite doubtful if she ever fully recovers her health. She also had the personal confidence of the President and his family fully and generously.

Surgeon-General Barnes and Major Woodward present still another difficulty in the case. They were both in attendance on the President from the beginning till near the close, Dr. Woodward acting as microscopist as well as surgeon; but both these gentlemen belong to the Army of the United States, and with a proper delicacy shrink from accepting a money consideration for professional services, no matter how necessary or important, or how much outside of their ordinary duties. Yielding to this delicacy, but feeling that unjust and invidious distinctions would be made if their services were not properly recognized, your committee recommend that Surgeon-General Barnes, who has grown old and become distinguished in the service of his country, and now holds the rank of brigadier-general in the Army, be advanced to the rank of major-general, with a view of his being placed on the retired list under existing law.

Your committee also recommend that Joseph J. Woodward, who is now a major in the Army, and was brevetted lieutenant-colonel for meritorious services during the war, be promoted to the rank of lieutenant-colonel; but as his regard for the rights and feelings of his brother officers of the same rank, and perhaps older commissions, disinclines him to accept a place to their injury, we are constrained to recommend that a lieutenant-colonelcy beyond the muster now existing be created, and that he be advanced to it.

We fail to see any serious objection to the proposed action in regard to these officers of the Army, as in all other cases where merit and opportunity to distinguish themselves unite in the career of our Army officers, the country should hasten to bestow its approval and proper reward.

This practice already exists and is a wholesome one; and it seems to your committee that if what is here proposed, or something like it, be not done, the services of these gentlemen, as meritorious as those of other surgeons, must be ignored.

The committee feel called upon to make honorable mention of the services of Dr. Smith Townshend, the first surgeon who came to the assistance of the wounded President; of Dr. Charles B. Purvis, who next came; and of Surgeon-General Wales, of the Navy, and of Dr. Nathan S. Lincoln, who were immediately called. These gentlemen did all that science and skill could accomplish towards the patient's relief, and to produce reaction from the shock.

Your committee, in view of the largely-increased burdens thrown upon the employés at the Executive Mansion, and the exemplary and faithful manner in which they discharged their several duties, have

thought proper to, and do, ask the House to grant them two months' additional pay; excepting that they recommend that Daniel Sprigg receive three months' additional pay, and that there be allowed Mr. Crump the sum of $3,000. Sprigg was servant to the President, and attended as nurse, being always within call, and attending to the more unpleasant duties of the sick room, while Steward Crump lost his health, probably permanently, and incurred large expenses in his effort to recover from illness brought about solely by his devoted attention and labors in waiting on the President.

Your committee hope that it will not be deemed out of place to mention here the names of General Swain, Colonel Rockwell, J. Stanley Brown, and C. O. Rockwell among those who devoted, without thought of personal discomfort or weariness, their whole time during the illness of the President to his comfort and service.

Your committee think there should be allowed the widow and family of the late President an amount equal to one year's salary, after deducting all payments made on account of salary.

Your committee herewith report, and make a part hereof, a schedule of the claims passed and the allowances made, together with a roll of those employed at the Executive Mansion, and also report a bill covering the findings and recommendations of the committee, section 1 of which is reported as a substitute for House bill No. 1227, which was referred to them, and they respectfully ask the passage by the House of the bill so reported.

Schedule of claims passed and allowances made, as referred to in the foregoing report:

Allowance to Mrs. Lucretia R. Garfield of one year's salary, less payments already made.	
Dr. D. W. Bliss	$25,000 00
Dr. D. H. Agnew	15,000 00
Dr. F. H. Hamilton	15,000 00
Dr. Robert Reyburn	10,000 00
Dr. S. A. Boynton	10,000 00
Dr. Susan Edson	10,000 00
William Crump	3,000 00
R. S. S. Jennings, expenses $724.08; use of property $275.92	1,000 00
Navy Department expenses	2,225 40
Navy Department expenses of Marine band	527 00
William R. Speare, undertaker	1,835 50
C. A. Benedict, coffin, trimmings, &c., and undertaking	887 50
Independent Ice Company	1,516 92
H. L. Crawford, sprinkling streets near Executive Mansion	270 00
C. T. Jones, board, carriages, &c., at Elberon	1,092 25
William Schoonmaker	16 00
Geo. Tieman, surgical instruments and supplies	85 27
W. B. Moses & Son	40 35
R. K. Helphenstine, medicines	278 35
Geo. W. Knox	13 00
White & Overman	16 80
Singleton & Hoeke	122 44
Telephone Company	50 00
C. F. Schmidt	50
Herman W. Atwood	75
Milne & Proctor, bedstead and mattress	162 55
Cleveland Transfer Company	14 00
Shuster & Sons	9 00
L. H. Schneider	7 59
Hooe Brothers & Co.	4 06
G. G. Simms	71 10
W. S. Thompson	18 15

List of employés at the Executive Mansion during the illness of President Garfield, to w the committee allow additional pay, with a statement of their salaries per year month:

	Per year.	Per m
O. L. Pruden, Assistant Secretary	$2,250	$1
W. H. Crook, Executive Clerk	2,000	1
Charles M. Hendley, Executive Clerk	2,000	1
H. C. Morton, clerk	1,800	1
W. S. Young, clerk	1,800	1
J. S. Bolway, clerk	1,400	1
W. R. Duke, clerk	1,200	1
O. L. Judd, telegraph operator	1,400	1
B. F. Montgomery, telegraph operator	1,200	1
Charles Loeffler, doorkeeper	1,200	1
W. D. Allen, doorkeeper	1,200	1
J. T. Rickard, doorkeeper	1,200	1
A. C. Smith, doorkeeper	1,200	1
A. T. Donn, doorkeeper	1,200	1
E. S. Dinsmore, sergeant police	1,140	
H. L. Atchison, policeman	1,080	
W. S. Lewis, policeman	1,080	
William Dubois, policeman	1,080	
Thomas F. Pendel, messenger	1,200	1
James Sheridan, messenger	1,200	1
Thomas Dolan, messenger	1,200	1
A. Simmons, messenger	1,200	1
Charles Lemos, messenger	900	
E. R. Beckley, watchman	900	
W. J. Smith, watchman	864	
T. L. Herbert, fireman	864	
Beverly Lemos, servant	720	
Daniel Sprigg, servant	720	
George Washington, servant	720	
Isaiah Lancaster, servant	720	
Jerry Smith, servant	720	
Mary White, laundress	240	
Ella White, laundress	240	
William Crawford, driver	360	
Samuel Collins, policeman	900	
Fred. Moore, messenger	900	
Charles Lee	900	
William Dupee	720	
William Gwinn	720	

VIEWS OF THE MINORITY.

The undersigned, members of the special committee authorized to audit certain expenses growing out of the sickness and burial of the late President Garfield, respectfully dissent from the report of the majority of the committee for the following reasons: We do not object to the payment by the general government of the funeral expenses of the late President, who was stricken down in the performance of his duties and because of his occupying a public station. Our objection to the report of the committee grows out of the recommendation for payment for the services of the physicians and surgeons who attended the late President during his illness. The amounts recommended to be paid by the majority of the committee are as follows: To Dr. D. W. Bliss, $25,000; to Drs. Hamilton and Agnew, $15,000 each; to Drs. Reyburn and Boynton, and to Mrs. Dr. Edson, $10,000 each, making a total for professional services of $85,000. In addition to this the committee recommend the promotion of Drs. Barnes and Woodward with increased pay in accordance with their promoted rank. There was no evidence before the committee, *ex parte* or otherwise, tending to establish the character of the services rendered or the value of such services. The undersigned were perfectly willing to concede that liberal compensation should be allowed to the physicians and surgeons, a compensation in excess even of what it were possible for any of the medical attendants to have earned in ordinary practice during the time, but the sums recommended to be paid by the majority of the committee are deemed by the undersigned to be excessive and out of proportion to the services rendered.

No accounts or bills were presented by any physician or surgeon, with perhaps one exception. No witnesses were called, no evidence by affidavit or otherwise submitted upon which the committee could base its finding. The conclusion reached by the majority of the committee was therefore based upon such information as had been derived from reading the newspapers, and does not differ in the least from that which every gentleman possesses who pays any attention to the news of the day. The undersigned were of the opinion that there was no extraordinary medical skill exhibited in the treatment of the case, and nothing calling for an extraordinary allowance for professional services; but, while willing to be liberal, they could not consent to the manner of payment recommended, nor to extravagance and wanton lavishment of the public funds.

The undersigned also respectfully protest against that part of the report of the majority which recommends the promotion of Surgeon-General Barnes to a major-general's rank, and retirement thereunder, and to the recommendation for promotion of Dr. Woodward from a major to a lieutenant-colonel, with rank and pay of the latter office. The undersigned are of the opinion that this committee has no jurisdiction to make any recommendation with regard to the military establishment. The committee could only consider such matters as were referred to them by the resolution of the House. The resolution authorized us to audit

certain expenses, and not to recommend promotions in the militai ice of the government.

There is no precedent, so far as we have been able to learn, f gress assuming to pay for the services of physicians attendin persons in civil positions; but in view of the circumstances of sault upon the late President, and of the great interest of the pe his recovery, the undersigned were willing that the government assume to pay such sums for professional services as might l have been recovered from the estate of the late President, and w sirous of treating such claims as claims against the estate of ceased rather than as properly cognizable by Congress. They we ing, therefore, to appropriate to the estate such portion of the un salary of the late President as would cover all such claims; b cannot agree that sums shall be appropriated for professional s far in excess of the value of such services, and which sums are bo upon claims not formally presented, and supported by no evidenc the value of the services rendered. For these reasons the under respectfully protest against the passage of the bill reported by t jority of the committee, and recommend the adoption of the fol resolution:

Resolved, That the report of the majority of the committee, t with the bill accompanying said report, be recommitted, with i tions to the committee to require all persons having claims cog by said committee to present accounts thereof, and to require ants in all cases to furnish proof as to the value of services rend material furnished; and, in the case of allowances for profession ices as physicians or surgeons, to make such allowances only as be properly chargeable to and provable against the estate of t President, and to provide in the bill, when again reported, such appropriation of unearned salary as would cover the amounts a for such professional services.

All of which is respectfully submitted.

JO. C. S. BLACKBUR
WILLIAM M. SPRING
BENJAMIN LEFEVR

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1070.

LEWIS JOHNSON & CO.

APRIL 20, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ERRETT, from the Committee on Ways and Means, submitted the following

REPORT:

[To accompany bill H. R. 5893.]

In this case Messrs. Lewis Johnson & Co., bankers in the city of Washington, remitted to New York, by mail, for collection, somewhere about January, 1878, sundry coupons cut from four bonds of the District of Columbia for $1,000 each, and from twenty $100 bonds of the same, all bearing interest at the rate of 7 per cent., in all, $210, said coupons being payable in New York, and that from some reason unknown to the owners, said coupons were lost in the transmission. They never reached the bank to which they were remitted for collection, and have never since been presented either at the bank or Treasury for collection. The committee report substitute for the original bill, requiring Lewis Johnson & Co., before they are reimbursed for said loss, to make satisfactory proof to the Treasurer of the United States that the coupons were lost as aforesaid, and have not since or at any time been sold, assigned, or transferred; and upon executing a bond in $500 as security against the future presentation of the coupons, the Treasurer is authorized to pay to Johnson & Co. the value of said coupons. The committee recommend the passage of the substitute.

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47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1071.

JOHN SPICER.

APRIL 20, 1882.—Laid on the table and ordered to be printed.

Mr. PAYSON, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany bill H. R. 235.]

The Committee on the Judiciary, to whom was referred the bill (H. R. 235) for the relief of John Spicer, having had the same under consideration, respectfully report:

The facts on which this bill is based are, in substance, these:

On February 4, 1864, Spicer made two contracts with the government for the delivery of 2,900 horses to the cavalry bureau—1,000 at Indianapolis, Ind., and 1,900 at Columbus, Ohio—within times specified, at $135 per head for those to be delivered at Indianapolis, and $134 per head for those at Columbus.

The contracts prescribed the qualities and conditions of the horses, and that "the horses, upon being delivered, shall be examined and inspected without unnecessary delay by a person or persons appointed by the United States, and *after* such inspector shall have certified that they are in all respects as contracted for, and *fully equal to the specifications aforesaid*, they shall be received and become the property of the United States, and all such horses as shall be condemned and rejected by said inspectors shall be removed from the government stables within one day after the contractor shall have been notified of the rejection." After this, payment to be made to the contractor for the horses accepted.

There were a large number of contracts made on February 4, 1864, for horses, and on the next day the cavalry bureau issued a circular order to all the government inspectors at points where the horses were soon to be delivered, directing the manner of inspection and imposing certain conditions, which were deemed by Spicer inconsistent with his understanding of the contract, and not only unreasonable, but the inspection provided by this circular, being different from that theretofore practiced by the government inspectors in particulars referred to in the litigation which resulted in similar cases, and which will be referred to hereafter, materially changed and modified the contract by imposing on the contractor increased delay, enhanced expense, and largely augmented risks, so that he was not bound to submit his horses to the inspection required by this circular. This Spicer asserted when his attention was called to this circular, about February 15, 1864. It is not claimed that the new rule of inspection required better horses than the old practice, nor better than those contemplated by the contract; the objection went to the method and authority given to the inspectors as to rejected animals, as will appear.

Spicer had in the mean time contracted with parties in the W portion of the horses to be delivered on his contracts, which cont provided that the horses should be "subject to inspection," so tha was not bound to pay, except for such horses as should be ir and accepted by the government. Thus all risks attendant on tion where cast on the sellers and not on Spicer, as his purcha always "subject to inspection."

Upon the horses being produced which Spicer had then ba for, they were met by this circular, and the owners, as well as refused to submit them for inspection under these rules, but we and willing to submit them under the old practice. The inspe fused to depart from their instructions, and so no horses were t under the existing rules. So nothing was done by way of t offer to perform by Spicer under these regulations, and after t of the war Spicer brought suit against the United States, in th of Claims, for the difference between the contract price and could have furnished the horses for, at the points named, aver ability, readiness, and willingness to have delivered, at large himself, under the former practice of inspection. The Court o found, as facts, that the contracts were made, that the circul structions was issued, that Spicer was able and willing to per der the former methods of inspecting; that he did not present an under the new rule; that the practice under the new rule diffe the former in this, that the horses were to be kept twenty-four the government stables before inspection; that during the in the owners should be excluded; that horses that were *manifest tempt at fraud because of purposely concealed defects or of incu ease* should be branded R on the left shoulder; those rejected f under age, poor condition, or temporary injuries, to be branded R on front hoof; that after the new rule owners refused to subr horses to it, and that this refusal made it impracticable for Spic fill, as "it would have been necessary for him to personally mak nation of each horse, which would have been impossible within limited by the contracts."

The court announced, on these findings of facts, the law, t new circular made new contracts; that the cavalry bureau ha thority to so change the terms; that Spicer was not bound to to perform under the new rule, and therefore Spicer was entitl cover the difference claimed, $39,900, and gave judgment acc The United States appealed to the Supreme Court, and the jud the Court of Claims was reversed, and that court directed t judgment in favor of the United States. (See United States *vs* 15 Wall., 51.)

This bill proposes to pay Spicer the amount of the judgmen Court of Claims, and the relief is asked on the ground that th Spicer was not considered understandingly by the Supreme Cou the case was submitted to that court with another, known as case. (13 Wall. 36), which case was assumed by the court to c stantially the points in Spicer's case, and made decisive of it.

It is earnestly urged, in the brief furnished us, that there is a tial difference in the two cases; that the Supreme Court did n the difference, and had the court applied the law, as held by Smoot case, to the facts found in Spicer's case, judgment wo been given for Spicer.

Counsel for Spicer further argue, in support of the bill, tha is, that where a tender was made, or the contractor was ready

ing to perform, then the clear conclusion of the Supreme Court's holding would be, that the United States was liable; that as to Spicer he would be entitled to recover if that condition of fact in his case had been noticed which distinguished it from Smoot's case.

No reference was made in the brief furnished us by counsel to the earlier case of the United States *vs.* Wormer (13 Wall., p. 25). In that case the question was directly presented whether the new rules of inspection were reasonable ones, as applied to prior contracts, and with which such prior contractors were bound to comply.

That was the only question; and after a full discussion by such lawyers as Mr. Bristow for the government, and the late Senator Carpenter for the contractor, the court, without a dissent, held the new rule of inspection reasonable and binding as to all prior contracts.

In Smoot's case, on the argument by General B. F. Butler, a distinction was sought to be made as to the Wormer case, and the Attorney-General urged that legally there was no distinction; that Wormer could have been defeated on the ground that he made no tender; that he had no horses; which facts would dispose of Smoot's case.

The court consider the points urged, and expressly overrules the holding of the Court of Claims on the seventh finding of fact in the Spicer and Smoot cases, that the impracticability of filling the contracts, caused by the refusal of the owners to sell to contractors "subject to inspection," is not at all material, and while not expressly calling attention to the Wormer case, and in terms affirming it, the court does so impliedly, and in the opinion contents itself with arguing the alleged differences in the cases, and defeating Wormer on the point made.

So that in the decided cases the Supreme Court has expressly determined that Spicer has no legal right of recovery or for relief, and this, indeed, is now conceded by Spicer's counsel upon examination of the opinion in Wormer's case, that so long as that stands unreversed, Spicer's claim is barred; and so your committee hold.

It is urged that Wormer's claim was allowed by the Forty-fourth Congress, and paid. We find that to be so, but that was clearly erroneous, we think, and especially as the report in that case does not show that the Supreme Court had adjudicated the matter it is no precedent to follow here.

Insisting, however, that the decision of Wormer's case was erroneous, Spicer asks us to recommend the passage of a bill (as a substitute for H. R. No. 235) granting a rehearing of his case in the Supreme Court, and an advancement on the docket for a speedy hearing.

This is asked on the statements on page 6 of the brief furnished, that Smoot's case was first on the docket of the Supreme Court pending Spicer's appeal, and by making an agreement to submit his case with Smoot's, Spicer had an advantage of having his case determined a year or two prior to its regular call, and that, forming his opinion from the reported opinion of the Court of Claims in the Smoot case, he believed the principal facts to be similar in both cases.

We find the facts to be that at the December term, A. D. 1872, of the Supreme Court, both cases were pending: the Smoot case, No. 523; the Spicer case, No. 241. Smoot's case was for argument December 11, 1872, on motion of General Butler. Spicer's would have been reached April 18, 1873, only four months later. A motion was made in both cases on December 6, 1872, to advance the cases, and they were both set for argument after No. 53, which was reached December 10, 1872, and these cases argued together on the 11th.

We find, too, that Hughes, the attorney for Spicer, was, with General

Butler and Mr. Peck, also attorney for Smoot in the Supreme Court. He filed Smoot's petition in the Court of Claims, and was attorney of record from first to last for both Smoot and Spicer, and that, through the Court of Claims, as well as the Supreme Court, the two cases were taken concurrently, evidence being taken in the Court of Claims to be used in both cases, and so expressed on the papers; and as an additional factor of no slight importance, Senator Carpenter, who was attorney for Wormer, appears by the record as attorney for Spicer in the Supreme Court. So it cannot be possible that the cases were not well understood when argued in the Supreme Court.

As the practice has been well settled since 1852 to allow rehearings when a single judge desires it (see Public Schools *vs.* Walker, 9 Wall., 603), and as in all these cases the decision of the court seems to express the unanimous opinion of its members, we believe the request as to the substitute should not be granted, and report back the bill, with the recommendation that it do not pass.

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1072.

UNITED STATES REGULATION FIRE-ARMS COMPANY.

APRIL 20, 1882.—Laid on the table and ordered to be printed.

Mr. PAYSON, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany bill H. R. 1069.]

The Committee on the Judiciary, to whom was referred the bill (H. R. 1069) for the relief of the United States Regulation Fire-Arms Company, have had the same under consideration, and report as follows:

Letters patent were issued on September 19, 1865, to E. S. Allin, of Springfield, Mass., for a useful improvement in breech-loading fire-arms. Mr. Allin had been for years master-armorer at the government armory, and had the benefit of the use of the government machinery, material, and the suggestions of other employés in the development of his improvement, and in consideration of the aid received from the United States in developing, perfecting, and applying to practical use the said improvement, assigned to the United States the right to manufacture and use the improvement everywhere. This contract was made October 30, 1867, and since that time the government has manufactured hundreds of thousands of breech-loading fire-arms containing Allin's improvement. Since the government has manufactured these arms the practice has obtained of making sale publicly, after due notice, of such ordnance and ordnance stores as either were no longer required, or which it was best to dispose of on account of their unserviceable condition, of expense of their care and preservation, or because of the obsolete patterns of the arms; in those sales have been included very many containing this improvement.

Again, under existing law, the United States has issued large numbers of arms containing Allin's improvement, to the different States, for arming the militia, and has also sold many to the officers of the Army.

In 1868, on December 18, Allin assigned to the petitioner all his interest in the patent, this interest being, of course, subject to the grant made to the United States, and after this all the sales and distributions complained of were made.

Petitioner claims that all sales of arms made by the United States, which contained this invention, were made without authority, and that the government should account to it, as assignee, for a reasonable royalty on all sold, and also claims that on all arms containing this improvement, which have been distributed to the militia of the States, a like royalty should be paid, and which is asserted to be $1 per arm. As the right to sue the government is barred by the statute of limitations, the petitioner having failed to assert any claim in the courts for all these

years, we are asked to set aside the bar of the statute of limitations, and allow it to sue in the Court of Claims for this royalty.

The claim is of great importance, because, if a standing in court should be given, and petitioner sustain the claims it makes to the extent charged, it would involve the government to the extent, probably, of one-quarter of a million dollars, as more than that number of arms containing the patent have been disposed of by sale after use, and distributed to the militia, since the assignment to this company.

Of course, the amount the government would be liable to pay ought never to be a controlling circumstance in a matter of *right*, but where we are asked to remove a bar of a statute, and allow a suit to be brought against the government, as a matter of favor, and in a case where no reason is assigned for failure to assert a claim in apt time, it should not be disregarded.

The general rule is, that a right to manufacture and use a patented article does not carry with it the right to sell: this is conceded; but the question here is: Was it an inconsistent exercise of the right which the government had under all the circumstances for it to sell to the officers of the Army some of their arms—to sell such as were unserviceable, or because of the obsolete pattern of the arm to which the patented device was attached, or to distribute them to the State militia?

The petitioner, The United States Regulation Fire-Arms Company, had not at the time of these sales and distributions any factory, or had it manufactured any arms then or since. So these sales or distributions could not have interfered with it so as to cause actual loss on sales to be sustained by it.

All the sales the government made were after full notice, and were only of unserviceable arms, which had been used in the Army, except a small number of new ones, and all were regarded as of obsolete pattern as we are advised by the Ordnance Office. We are of opinion that this was not such an inconsistent exercise of power by the government, under its contract with Allin, as to justify a recovery by the petitioner.

The question has been raised as to the right of property in arms distributed to the State militia, and it has been held by the Department of Justice, opinion of Attorney-General Williams, of November 11, 187[illegible], addressed to the then Secretary of War, that a qualified right of property passed to the State on such distribution.

But we do not regard this as such a sale as would authorize us to give this company a standing in court to attempt a recovery of a royalty on such arms, as we believe that distribution to be a consistent "use" of the arm, under the Allin contract. As the petitioner asks that the bar of the statute should be removed as a matter of grace, our ideas of the equity of its claim are properly to be considered.

As no damage is shown or claimed to have resulted to this company in any way whatever, by the acts of the government—as no reasons are assigned why the technical claim for royalty was not made within the reasonable time allowed by the statute—we are clearly of opinion that we ought not, as a mere matter of favor, to give this company a standing in court to press a technical claim of violation of contract, which seems to us to be purely of a speculative character.

We report the bill back with the recommendation that it do not pass.

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47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1073.

CERTAIN CASES TO THE COURT OF CLAIMS.

APRIL 20, 1882.—Laid on the table and ordered to be printed.

Mr. PAYSON, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany H. Res. 76.]

The Committee on the Judiciary, to whom was referred House resolution 76, have had the same under consideration, and would report:

The object of this resolution is to have restored to the docket of the Court of Claims forty-three cases which were stricken therefrom because of the passage of the act of July 4, 1864, which provided that that court should not have jurisdiction in cases of claims against the United States growing out of the destruction or appropriation of property by the Army and Navy engaged in the suppression of the rebellion.

These cases are all of the character named in the act, and the only point specially urged in support of the bill is that in these cases the petitioners had, after filing their claims, taken some proofs in support of them, and having been involved in this expense, the court ought to be permitted to hear and determine the cases.

It is too late now to question the policy or propriety of the legislation involved, and your committee are of opinion that the point urged is not sufficient to justify making an exception to the provisions of the statute in these cases named in the bill.

We report back the bill with the recommendation that it do not pass.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1074.

FOG-SIGNAL AT POINT ROBINSON.

APRIL 20, 1882.—Referred to the Committee on Appropriations and ordered to be printed.

Mr. D. P. RICHARDSON, from the Committee on Commerce, submitted the following

REPORT:

The Committee on Commerce, having considered the memorial of the legislative assembly of Washington Territory relative to the necessity for more light houses and fog-signals along the coast thereof, beg leave to report:

That Puget Sound is a vast inland sea, having 1,594 miles of shore line. Its numerous bays, estuaries, and inlets are nearly all navigable for the largest sea-going vessels.

During the year ending June 30, 1878, 108 vessels, with a carrying capacity of more than 31,000 tons, were documented at Port Townsend, its port of entry. The number documented during the last fiscal year was 117, with a carrying capacity of over 38,000 tons.

The number of vessels in the foreign trade entered at this port and passing into the sound in the year ending June 30, 1880, was 287, capacity 145,067 tons; in the year ending June 30, 1881, 306 vessels, capacity 152,669 tons; in the first half of the present fiscal year, 191 vessels, capacity 109,155 tons.

The number cleared for the year ending June 30, 1880, was 305, capacity 160,353 tons; for the year ending June 30, 1881, 322 vessels, capacity 165,790 tons; and for first half of present fiscal year, 194 vessels, with capacity of 110,418 tons. Its coastwise trade is estimated to be fully twice as large as the foreign trade.

It is stated in the reports of the Light-House Board that dense fogs prevail in this region during a large part of the year.

More lights and fog-signals are needed for the protection of this important and growing commerce.

The point at which a fog-signal appears to be urgently required is Point Robinson, some 12 miles below Tacoma, the terminus of the North Pacific Railroad.

The establishment of this station has been recommended by the Light-House Board, as shown by accompanying documents.

The committee, believing that a fog-signal at Point Robinson is demanded by the needs of commerce, report back the memorial and ask that it be referred to the Committee on Appropriations, with the recommendation that $7,000 be appropriated for this purpose.

UNITED STATES OF AMERICA,
Territory of Washington:

OFFICE OF THE SECRETARY.

I, N. H. Owings, secretary of said Territory, do hereby certify that the annexe r writing is a full and correct copy of a memorial now on file in this office.

In testimony whereof I have hereunto set my hand and affixed the great seal od said Territory, this 20th day of December, 1881.

N. H. OWINGS,
Secretary of Washington Territory.

[SEAL.]

MEMORIAL RELATIVE TO LIFE-SAVING STATIONS AND LIGHT-HOUSES.

To the Senate and House of Representatives of the United States in Congress assembled:

Whereas the governor has, by special message, called the attention of the legis-t've assembly to certain instances of marine disaster which have recently happen at Shoalwater Harbor, and has made reference to the inadequacy of the means the and elsewhere in our Territory for the better preservation of life and property fr s ipwreck, we do therefore respectfully memorialize Congress to provide our sho w.th appliances used elsewhere upon the coast of the United States for the purpo indicated, and pray that new light-houses be established, one at Chehalis Point the south side of Gray's Harbor; one at some suitable point farther north and in t vicinity of Quinalt; one at Alki Point on Puget Sound; one at Point Defiance, a another between Steilacoom and Olympia. We further represent that the life-savi stations now established on the Pacific coast of the United States be provided wi paid crews, as established under the government, and that a station be established the earliest possible time at Chehalis Point.

Passed the house of representatives December 1, 1881.

GEORGE COMEGYS,
Speaker of the House of Representatives.

Passed the council December 1, 1881.

H. F. STRATTON,
President of the Council.

Approved December 1, 1881.

TREASURY DEPARTMENT,
February 25, 1882.

SIR: I have the honor to acknowledge the receipt of your letter of the 14th insta re.uesting in formation in regard to the necessity for a light-house or fog signal P·int Robinson, Puget Sound, Washington Territory, and reports of Light-Hou B ard bearing upon the subject, &c.

In reply, I have respectfully to transmit herewith a copy of a letter of the Boa d.ted 21st instant, stating that an appropriation of $7,000 for the establishment o fo.·signal at the point above named was recommended in the rep.rt of the Board 1879, and that copies of said report, and of that for 1880, have been sent you.

Very respectfully,

CHAS. J. FOLGER,
Secretary.

Hon. THOMAS H. BRENTS,
House of Representatives.

TREASURY DEPARTMENT,
OFFICE OF THE LIGHT-HOUSE BOARD,
Washington, February 21, 1882.

SIR: I have the honor to acknowledge the receipt of department letter of Febru 18, transmitting a letter. dated February 14, from Hon. T. H. Brents, Delegate fr Washington Territory, asking for a copy of the report of the Light-House Board 1 1 ·0, and for information in regard to the necessity for a light-house and fog-sig at Point Robinson, Puget Sound.

In reply I beg to say that the Board in its annual report for 1879, on page 71, stat w.th regard to this subject:

"Robinson's Point, Maury Island, Puget's Sound, Washington Territory. Tl prominent point, next in importance to West Point or Sandy Point, is located on t northeast end of Maury Island, Puget's Sound, about 12 miles north of New Tacon the prospective terminus of the main Northern Pacific Railroad, and the prese ter minus of the branch of that road connecting Puget's Sound with the Colum River at Kalama. A 10-inch fog-whistle is needed for this station. It will c $7,000. An appropriation for that amount is accordingly recommended."

Mr. Brents's letter is herewith returned. A copy of the Board's report for 1880 l been sent him in accordance with his request.

A copy of the report for 1879, containing the paragraph above quoted, has also b sent him for his further information.

Very respectfully,

JOHN RODGERS,
Rear-Admiral, U. S. N., Chairman

The Hon. SECRETARY OF THE TREASURY.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1075.

SEED FOR DESTITUTE PEOPLE.

APRIL 20, 1882.—Laid on the table and ordered to be printed.

Mr. VALENTINE, from the Committee on Agriculture, submitted the following

REPORT:

[To accompany bill H. R. 5395.]

The Committee on Agriculture, to whom was committed House bill 5395, to authorize the Commissioner of Agriculture to furnish necessary seeds for planting purposes to persons represented to be in a destitute condition, have had the same under consideration, and report it back to the House with the recommendation that it do not pass.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1076.

CANNON TO SARATOGA MONUMENT ASSOCIATION.

APRIL 20, 1882.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. BRAGG, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 5377.]

The Committee on Military Affairs having had under consideration the bill (H. R. 5377) to authorize the Secretary of War to deliver certain cannon to the Saratoga Monument Association, submit the following report:

On the 17th of October, 1777, Burgoyne surrendered on the plains of Saratoga, and with that event closed the most important chapter of the American Revolution.

The elaborate preparation and sending forth of the finest army that ever left the shores of England; the arrogant proclamations that heralded the approach; the successful advance; the terror inspired by its savage allies; the early consternation and discomfiture of the colonists; the subsequent rally of desperation; the indecisive conflict of September 17th; the disastrous defeat of the Briton, October 7th, all culminated at Schuylerville in the capitulation of his entire army, and the hosannas of the nation on its glorious deliverance.

This event secured for us the French alliance and lifted the cloud of moral and financial gloom that had settled upon the hearts of the people, dampening the hopes of the leaders of the Revolution, and wringing despairing words even from the hopeful Washington. From that auspicous day, belief in the ultimate triumph of American liberty never abandoned the nation till it was realized and sealed four years later almost to a day in the final surrender at Yorktown.

More than a century has elapsed since that illustrious event. All the actors in the great drama have passed away, and their descendants are now sharing in the rewards of their devotion and suffering. And yet, while Lexington and Bunker Hill have long had their imposing memorials to tell of the earliest bloodshed in the cause of cisatlantic freedom, until recently no monument had risen to commemorate the first decisive triumph which vindicated the Declaration of Independence and secured the integrity of the confederation, and in which the men of New England, the Middle States, and the South stood side by side. The purpose is noble, the tribute deserved; for every such memorial stands as an educator to gratitude and patriotism.

Actuated by these sentiments, as well as by reverence for the heroic memory of our forefathers and by gratitude for the blessings which their valor and sufferings, under Divine Providence, secured for their

descendants, in 1859 Hamilton Fish, Horatio Seymour, William L. Stone, Benson J. Lossing, John A. Corey, and other patriotic gentlemen organized the Saratoga Monument Association under a perpetual charter from the State of New York, whose object was the erection of a fitting memorial on the site of Burgoyne's surrender.

At the present time the several committees of the organization are working diligently and harmoniously; work has been begun from a plan by a competent architect, J. C. Markham, and the structure already stands some thirty feet above the foundation. The expectation is that the coming autumn will witness its completion in a manner worthy of the pride of the nation. The design of the monument is an obelisk form, and of Gothic construction, built of granite, forty feet square at the base and ten feet at the summit, and one hundred and fifty feet in height, accessible to its top, containing at the base apartments fourteen feet square for the erection of commemorative and historical tablets, and the exhibition of relics from the battle-fields, including (it is hoped) some of the captured cannon, and niches for bronzes, representing some of the prominent actors in the great event. In accordance with this design the Saratoga Monument Association have petitioned Congress for the cannon captured from Burgoyne now at the Watervliet Arsenal at West Troy, N. Y. It is proposed not only to exhibit them as relics in a room specially designed for such objects as hinted above, but, as will be seen in the accompanying photograph, to place one twelve pounder gun on each corner of the plinth or platform of the monument.

The character of the gentlemen composing the association is such as to assure the country that the preservation of the cannon may be safely intrusted to them.

The committee are, however, of the opinion that the mounting of a field battery to be selected from the trophies will add much to the effect of their display, and they recommend the following amendment to be added to the bill: "*Provided*, That the Secretary of War shall cause the four twelve-pounder guns to be mounted on suitable carriages before their delivery"; and, when so amended, that the bill do pass.

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1077.

THE SALE OF THE CHARLESTOWN NAVY-YARD, MASSACHUSETTS.

APRIL 20, 1882.—Referred to the Committee on Appropriations and ordered to be printed.

Mr. MORSE, from the Committee on Naval Affairs, submitted the following

REPORT:

[To accompany bill H. R. 5443.]

The Committee on Naval Affairs, to whom was referred the bill (H. R. 5443) authorizing the sale of the Charlestown navy-yard, Massachusetts, beg leave to submit the following report:

That the navy-yard at Charlestown is situated on land which has become much more valuable for business purposes than it can be for the purposes for which it is now used. Since the war the United States has maintained seven navy-yards in such a manner that the property has necessarily deteriorated year by year. The amount appropriated for maintenance and repair is, and must be, entirely inadequate. We say must be, because Congress will always be unwilling to pay for mere maintenance so large a percentage of the whole sum appropriated for the Navy as is really needful in time of peace.

There is not the slightest need of so many yards. The cost of keeping them in order is too great. There will soon be another difficulty. The naval authorities have determined to build hereafter only iron or steel ships. The Charlestown yard, if it is kept in full use, must be supplied with the plant needed for such work at a very large expense. The fact that the yard is near Boston gives it no advantage. It makes the land more valuable, but does not make the yard more valuable for government use. The whole matter ought to be looked at in a business way. We do not need the yard now; it is only an expense, costing $400,000 annually to keep it in repair, and even that sum does not prevent the yard from becoming less and less efficient. If we should at any future time need such a yard, one-fifth of the sum we shall get for this yard will buy it and set it in order. If we sell it, seven or eight millions of dollars can be got for it. The estimate made of the property by the chairman of the assessors of Boston is $7,000,000, and it will sell to-day for more. By such a sale the United States will save $400,000 per year in maintenance, and the interest for the money realized by the sale added to that amount would almost if not wholly be sufficient for the purchase every year of such a steel ship as the Navy now demands. Boston will acquire over $7,000,000 of taxable property at once and much more in the future. It does not pay for the United States any more than for anybody else to use property too

valuable for the business. What would be thought of a business man who should use for his factory land which would sell for over seven millions, when land worth half a million would be just as good? What would be said of him if he did it in spite of the fact that he already owned the less valuable lot?

If we should ever need, in time of war, the facilities which Charlestown affords, the other yards can be improved to any extent which the needs of war may require.

We think therefore that sound business principles require that the yard should be sold, and recommend that the bill reported do pass.

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47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1078.

TERRENCE DELOZIER.

APRIL 20, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. LACEY, from the Committee on the Post-Office and Post-Roads, submitted the following

REPORT:

[To accompany bill H. R. 4597.]

The Committee on the Post-Office and Post-Roads, to whom was referred the bill (H. R. 4597) for the relief of Terrence Delozier, respectfully submit the following report:

The claimant, Terrence Delozier, represents, under oath, that he is a citizen of the United States, of Saint Augustine, Cambria County, Pennsylvania; that in the spring of 1872, he, with others, put in proposals to the proper department for carrying the United States mails (under the published advertisement inviting proposals) on route No. 2942, between Fallen Timber and Carrolltown; that on the 30th day of March, 1872, he was notified by the mail department that his proposal was accepted, and that a contract would be duly sent for execution; that for years previous, and at that time, the mails were carried on said route, under schedule, but once a week and return. The claimant so understood the new proposals, and was informed by the postmaster at Carrolltown that the contract would embrace only one trip per week on each route, whereas in fact, as he discovered too late, after executing the contracts, the mails on said route were to be carried twice a week; that the claimant had taken the contract at the rate of $150 per annum with the understanding that he were to make one trip weekly; and that through this error and mistake, mainly attributable to the postmaster at Carrolltown, he was compelled to perform just double the service intended by proposal and contract, and so understood by all parties at the time.

The claimant feels that the government should now the more readily give him relief from the fact that he was led into this error by the postmaster, who positively assured him that the department required but a single trip weekly; that this extra service, to the amount of $600, in four years, is particularly burdensome on the claimant for the reason that he is a poor man; and notwithstanding this loss he performed the service contracted for faithfully.

He further represents that the weather was unusually severe during the period of said contract, and he lost heavily in stock in consequence; but of this he could not complain if he was otherwise reasonably compensated.

Affidavits now on file by Mr. John Buck, the postmaster at Carrolltown, show that the error was mainly caused by his mistake in giving erroneous information to said contractor, and substantiate the truth.

fulness of the statement of facts set forth by the said Terrence D in his affidavit.

Henry Scanlan, a justice of the peace in and for said coun State, also presents sworn evidence that at the time the papers proposal and contract were executed before him, preliminary to ing upon his duty as mail carrier, the question arose as to whetl mails were to be carried once or twice a week, and that he advis contractor to see the postmaster and procure the desired inforn and that he returned with the explicit information from the post that the mails were to be carried once a week, and that the contr signed with that understanding; and that he has read the sta made by said Terrence Delozier, and has good reason to know and the same to be true in every particular.

The committee, having reviewed the testimony and considered evidence in this case, are of the opinion that the contract was e into through a misunderstanding between the contractor and the g ment, mainly attributable to a wrong statement made in good fa the postmaster at Carrolltown to said Terrence Delozier, the cont and that on account of said misunderstanding he has performed the duty he supposed he was obliged to perform, and double that had theretofore been performed.

Your committee therefore recommend that said bill be amen striking out the word "routes" in line 8 and inserting the word by striking out the words "and twenty-nine hundred and forty-fo line 9; by inserting after the word "from" in line 10 the words *Ju in;* by inserting after the word "to" in line 11 the words *June t in the year;* and by striking out the word "seven" at the end of and inserting the word *six.*

They recommend the passage of the bill when so amended.

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47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1079.

J. H. TINSLEY.

APRIL 20, 1882.—Laid on the table and ordered to be printed.

Mr. LACY, from the Committee on the Post-Office and Post-Roads, submitted the following

REPORT:

[To accompany bill H. R. 465.]

The Committee on the Post-Office and Post-Roads submitted the following report, to accompany bill H. R. 465.

Mr. James H. Tinsley is the contractor on mail route numbered 8510, from Foot of Plane to Hill's Grove, in the State of Pennsylvania, at $133 per year from July 1, 1881, to June 30, 1885. He claims that by an error of his clerk who filled out the proposal upon which his contract is based, his bid was $133 per annum, instead of $289, which latter was the sum for which he intended to perform the service. He asks the passage of this bill directing the Second Assistant Postmaster-General to pay him for said service at the rate of $289 per annum.

Inasmuch as the alleged mistake was one for which the Post-Office Department is in no degree responsible, and results from no neglect of duty or misrepresentation on the part of any agent of the government, your committee are of the opinion that it would be establishing a dangerous precedent for Congress to grant the relief asked for, and therefore report against the passage of the bill.

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1080.

THAD. BUTLER.

APRIL 20, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SPAULDING, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany bill H. R. 5174.]

The Committee on Indian Affairs, to whom was referred the bill (H. R. 5174) authorizing the Secretary of the Treasury to settle the accounts of Thad. Butler, respectfully reports:

Thad. Butler was special agent of the Indian Office to pay the annuities for the years 1880 and 1881 to the Miamies of Indiana. The Commissioner of Indian Affairs wrote him under date October 14, 1880, "the amount of $550 is sent you from contingencies, to cover your own salary, incidental expenses, pay of witnesses, &c."

Butler rendered an account for the entire sum, with vouchers, including a voucher for $215, the amount of his salary. The Second Comptroller of the Treasury disallowed the salary account for the reason "that the appropriation, contingencies Indian Department, 1881, out of which it was paid was not applicable to that purpose."

Butler performed the service and is entitled to be paid his salary, $215. To enable the Treasury Department to adjust his accounts, it is recommended the bill do pass.

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47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1081.

FRED. PHILLIPS.

APRIL 20, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BLANCHARD, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany bill H. R. 5894.]

The Committee on Indian Affairs, to whom was referred the bill (H. R. 1912) for the relief of Fred. Phillips, having considered the same, respectfully report:

That the claimant, Fred. Phillips, is a merchant of Salmon City, Idaho; that he has resided there for fifteen years; that in 1877 he received all his goods and merchandise at Corinne, a railroad station on the Central Pacific Railroad, in the Territory of Utah, and transported the same, overland, on wagons, 350 miles; that in the month of August, 1877, he had on this road six large freight wagons, drawn by twelve pairs of mules, loaded with goods, wares, and merchandise, to go to his place of business at said Salmon City, and when about 110 miles south of Salmon City, and when the train was in camp for noon, on the 15th day of August, 1877, the said train and party was surprised, attacked, captured, and destroyed by a band of Nez Percé Indians, the men all murdered except two Chinamen; the mules, horses, merchandise, and property of every kind taken and destroyed. Nothing was found afterwards except the bodies of the murdered, unburied men, and the burned and charred remains of the wagons and goods. About a year afterwards this claim was prepared and presented to the Department of the Interior for investigation and report; and by the order of the department to its agent, who had these Indians in charge, on the 6th day of November, 1879, this claim was, by the agent, presented to the chiefs and head men of said band of Indians for payment; that the band acknowledged they did, at said time and place, as alleged, capture a train of eight wagons, drive off the horses and mules, take from the wagons some of the articles of merchandise, then set fire to the wagons and contents, but that they had no money or property to pay claimant for his loss sustained; that this band of Indians are a part of the Nez Percé "nation"; that they originally inhabited part of Idaho, lying between the Bitter Root Mountains, extending from Pelouse River on the north, thence to the Salmon River and valley on the south.

In June, 1855, a treaty was made with this tribe or nation and signed by fifty-eight chiefs and head men, whereby a portion of this Territory, west and south, was ceded to the United States. Joseph and his band were given the part or portion known as the Wallowa Valley, a tract of land embracing 1,425 square miles, in the State of Oregon, and they

the United States Government agreed to pay to the tribe or na
addition to the annuities and goods provided for in the treaty o
1855, the sum of $262,500. This treaty was signed by Chief I
head chief of the Nez Percé nation, and fifty other head mer
tribe. Twenty of this number were parties to the former treaty
Joseph and his band demurred to this last treaty, refused to be
to it, and claimed the right to still occupy the Wallowa Valley
had done since the treaty of 1855. This faction of the tribe or "
remained on the Wallowa Valley until the encroachments of the
renewed the difficulties with these Indians. The government
lected and detailed men to act from time to time as commissi
adjust and settle these troubles and remove Joseph and his ba
the Wallowa Valley to the Lapwa Reserve in compliance with th
of 1863.

The commissioners reported the removal of these Indians imp
ble. The government then adopted the policy of declaring thi
an Indian reservation, and solicited Congress to appropriate a s
amount to pay the white settlers for their improvements and
from this Territory, which Congress failed to do. Joseph not b
clined to respect the settlers' rights, the reservation rights of t
dians was revoked by the President June 10, 1875, putting the
Joseph and his band to the Wallowa Valley back to the stipula
the treaty made June, 1855. To avoid threatened outbreaks aga
missioners were sent to visit and counsel with these Indians. T
mission met Joseph and his band November 13, 1876, and failed
any definite arrangement looking to a removal of these Indians
their report say, that while full weight is given to precedents
thorities in the government dealing with the Indians, they lool
fact that Joseph's father, chief of the same band, joined in mal
treaty of 1855, which implied a surrender of any specific rights
particular portion of the whole reserve, which included the V
Valley; that this renders Joseph's claim, even the right of occ
uncertain; and that if the principle, usually applied by the gove
of holding that the Indians with whom it has treaties are b
majorities is here applied, Joseph should be required to live wi
limits of the Lapwa Reservation, as designated by the treaty
and recommend military force to be used to effect the removal o

heretofore stated, raided this claimant. After their capture Joseph ane his band were settled on a tract of land in the Indian Territory. Thd government took possession and appropriated the whole of the territory of the Wallowa Valley, forcing these Indians to comply with the provisions and stipulations of the treaty of 1863, and is now disposing of and selling these lands in the Wallowa Valley to settlers and purchasers, and receiving therefor all the emoluments and benefits arising therefrom. The amount of land embraced in said Wallowa Valley is about 1,425 square miles. Portions of it are rich in minerals, portions adapted to agriculture and grazing, and all valuable land.

This committee finds that the treaty of 1855, article 8, provides that when depredations are committed on citizens by the Nez Percé Indians, the government may retain for such injury compensation for property destroyed out of their annuities, and the subsequent treaty of 1863 specially refers to this article 8, and declares it to be in full force and effect, and the bill is drawn to the effect that Congress allow the Secretary of the Interior to pay this claimant out of the moneys belonging to the Nez Percé Indians; but the committee, on referring the matter to the Interior Department, are informed that from the irregular execution of the last treaty, Joseph and his band are regarded as non-treaty Indians, and as not participating in its benefits and annuities, and that therefore it would be unwise to compel the treaty portion of the tribe to pay for the depredations committed by Joseph and his band on this claimant, but that the claimant is entitled to pay for loss actually sustained, and the amount should be paid out of the public funds.

The department shows that the only money now in the United States Treasury belonging to the Nez Percés is $10,000, and that the only money which Joseph and his band receives is a gratuity by the government for their support and civilization, which appropriation has been made annually only since they have been in the Indian Territory. The committee further find that there is no other claim filed for payment for property destroyed by these Indians in their last outbreak and raid, and that by the terms of the first rule of the Interior Department governing and providing for such cases, no other claim could now be filed for payment of property by said Indians destroyed. The amount this claimant puts upon his property is $20,649.74, but your committee find upon quite a thorough and lengthy examination of the items exhibited, that the prices claimed are too high, more than the government should pay. Your committee think that one-half the amount, last above stated, is the amount justly due, and that should be paid to claimant for his loss, and that the said amount should be paid out of the unappropriated moneys in the United States Treasury.

They, therefore, report the bill favorably by accompanying substitute, the passage of which they recommend.

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1082.

THE SALE OF THE OLD POST-OFFICE SITE IN NEW YORK CITY.

APRIL 20, 1882.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. SHALLENBERGER, from the Committee on Public Buildings and Grounds, submitted the following

REPORT:

[To accompany bill H. R. 5895.]

The Committee on Public Buildings and Grounds, to whom was referred House bill No. 1061, *beg leave to report:*

That they have given very careful and exhaustive consideration to the bill, inasmuch as the subject has been pending before Congress for a number of years. A brief history of the proposed legislation is submitted.

In 1860 the government, seeking a suitable location for the post-office in the city of New York, determined to purchase the property known as the Old Dutch Church, situated on Nassau, between Cedar and Liberty streets (the property mentioned in this bill), as the most eligible and convenient site for the purpose. The amount of money available for this purpose, in the hands of the department, was limited to $200,000, while the price demanded for the property was $250,000. In order to retain the post-office in the vicinity of the commercial center of the city, members of the chamber of commerce, and a few other citizens, contributed the $50,000 additional, which was applied to the purchase. Increased business and the inadequacy of the building to afford the necessary accommodations occasioned the appointment, by Congress, of a commission to select another location upon which to erect a post-office building more commodious and central. The commissioners selected the southern portion of the City Hall Park, and the city authorities, with great liberality, transferred and conveyed the same to the United States for a price much less than the property would have brought in open market. The new edifice has been completed and occupied by the government for a number of years.

In October, 1877, this old site and property was leased to James H. Conant, at the rate of $5,000 per annum, and has since been sublet by him for various purposes, after making some necessary repairs adapting it to business uses. The lease was renewed from time to time, at the same rate and to the same person, until the 1st of May, 1880, when it was again renewed by the honorable Secretary of the Treasury for two years at the rate of $12,500 per annum. That lease, as will be seen, is about to expire. The present Secretary of the Treasury having also strongly advised the sale of this property, renewal of the lease for any specific term of years is being withheld until it may be determined whether Congress will dispose of the property.

In order that the government may be fully protected, the committee has given hearings, after public notice, to gentlemen representing the chamber of commerce and business interests of the city of New York; also to members of the House from the city and State of New York; also to Mr. Conant, the lessee of the building, who is the only person who has appeared, or signified a desire to appear before the committee in opposition to the sale of this property. A full report of these hearings is submitted as an appendix to this report. As will appear from the statements of Mr. Conant, the principal opposition to this measure is based on the fact that the government is now paying heavy rentals for various purposes in the city of New York, and that therefore this property should be used as a site for the erection of a public building to accommodate several government offices. The committee having fully considered this proposition, agree with the honorable Secretary of the Treasury, and with Representatives in Congress from the city of New York, in the opinion that this site is too small for the erection of such proposed building; that property contiguous could not be added by purchase for anything less than a fabulous sum, and that a more eligible site of ample dimensions can be purchased elsewhere in the city for a very much less sum of money in case a new public building is authorized.

In the Forty-fourth Congress a bill of similar import was introduced, referred to the Committee on Ways and Means, favorably reported, but not reached on the calendar. In the Forty-fifth Congress a similar bill was introduced by Mr. Hewitt, favorably reported, but not reached. In the Forty-sixth Congress the bill was again introduced by Hon. Fernando Wood, favorably reported, but again failed for the same reason. In the present Congress, the bill under consideration has been introduced and referred to this committee. Your committee find that in each instance the defeat of the measure has apparently been secured by objections such as Mr. Conant, the lessee of the building, has suggested in his statement before the committee. These objections your committee think are fully answered and should have no weight.

In previous bills on this subject provision has been made for the return of the $50,000 donated by members of the chamber of commerce in case they should become purchasers of this property. This feature, however, is omitted in the bill which your committee report, and the property directed to be sold at public auction to the highest bidder, after public advertisement in four of the leading papers of the city of New York, and under conditions which will secure the full market value of the property to the government. The letter of the Secretary of the Treasury favoring the sale of this property is also submitted as an appendix to this report.

In view of these facts, the committee report back a bill as a substitute for bill H. R. No. 1061, authorizing and directing the Secretary of the Treasury to sell the property under conditions named, and recommend its passage.

APPENDIX A.

Before the Committee on Public Buildings and Grounds, House of Representatives.

WASHINGTON, D. C., *February* 3, 1882.

Mr. J. H. CONANT, of New York, appeared before the committee, and made the following statement:

GENTLEMEN OF THE COMMITTEE: By your permission, I appear before you for the purpose of stating a few facts in regard to the bill referred to this committee, provid-

ing for the erection of a public building upon the site now owned by the government on Nassau street, New York City.

The government is at present renting property in New York for the accommodation of its officers, which is not at all adapted to its needs. For instance, the army depot is located at the corner of Greene and Houston streets, which is a mile and a half from the sub-treasury, and they occupy a building for which I think they pay $15,000 a year; they did pay, formerly, $25,000 a year for it. That building is not fire-proof. The pension office is located in Canal street, in the Dime Savings Bank building. They want to be down town near the sub-treasury. The steamboat inspection office is in the fifth story of the new post-office. The navy office is at No. 29 Broadway, near the Battery; and of the internal-revenue offices one is in Courtland street, and the other I have forgotten the location of. But all of these offices are scattered far away from where they ought to be, and far away from the other public buildings, and the aggregate rentals amount to about $50,000 a year that they pay for the different departments.

There is a proposition before this committee to sell this Nassau street property now owned by the government, and to return a certain amount of money to the chamber of commerce. The chamber of commerce have an assignment of $31,000 of money which was advanced at the time the purchase of the property was made from the church. The church have received, out of the $250,000 for which they sold the property, about $235,000; that is all they have got. The deed had been delivered, and they could not collect the balance without a law-suit, and so they took the $200,000 that the government paid for the property, and $35,000 which was to be collected from the banks and insurance offices, and let the rest go.

If any bill is to be passed, I should recommend the passage of one paying back the money to the chamber of commerce, or to any other parties who advanced the money to the church, and I think the government should put upon this property an ornamental fire-proof building to accommodate the several departments of the government which are now scattered, and in buildings which are not fire-proof.

Mr. J. HYATT SMITH. You say that $15,000, due the church on this property, has not been paid?

Mr. CONANT. Yes, sir. They sold the property for $250,000 to the government, and the government only had $200,000 that they could spare, and the banks and insurance offices said they would subscribe and pay the balance, $50,000. They did subscribe, but there was some difficulty about paying the subscriptions, &c., and the church never got anything but the $35,000. That is a matter of record.

Mr. COOK. What is the property worth?

Mr. CONANT. It is worth anywhere from seven hundred thousand to a million dollars. A similar site on Broadway, below Exchange place, is now being negotiated for at $825,000.

Mr. J. HYATT SMITH. A lot of equal space?

Mr. CONANT. I think it is. It is the old Guarantee and Indemnity building, near Exchange place.

Mr. SINGLETON. The ground and buildings would bring all that they are worth, if sold at public auction, wouldn't they?

Mr. CONANT. Yes, sir. The buildings are of very little value. When I speak of the value of the property, I mean the ground. There is a site right opposite there, 25 by 100 feet, and the price asked for it is $125,000, and that has an old building on it. This property has eight lots: it is 185 by 115 feet.

Mr. COOK. What rental does this property bring to the government now?

Mr. CONANT. $12,500 a year.

Mr. COOK. The whole property?

Mr. CONANT. Yes, sir; the whole property.

Mr. COOK. How is it used—for what purpose?

Mr. CONANT. For business purposes—private business. The pension office wanted to come down there, and would have done so if they could haved staid for more than a year. If they can stay two years they will come down there now. They are in Canal street, far away from the sub-treasury.

Mr. DE MOTTE. Your judgment is that the property should not be sold?

Mr. CONANT. The property should never be sold, in my judgment, at all. If it is to be sold, it should be sold at auction

Mr. DE MOTTE. Do you come here representing any particular interest?

Mr. CONANT. No, sir; I represent the interest of the government, and of individual citizens of New York. I think the government should have, in New York City, an ornamental fire-proof building to accommodate its officers. The government has had nothing but the new post-office and the barge office built there for years.

Mr. SINGLETON. Have you conferred with the Secretary of the Treasury?

Mr. CONANT. Yes, sir; when Mr. Sherman was Secretary.

Mr. SINGLETON. Have you conferred with the Secretary of the Navy?

Mr. CONANT. No, sir; I have not yet.

Mr. CONANT. No, sir; the Army department occupy a building at the corner of Greene and Houston streets that is 50 by 100 feet. The quartermaster's and commissary departments are in this building at the corner of Greene and Houston. It was built for a dry-goods store, and is five stories high, with a subcellar.

Mr. SINGLETON. I don't see what the military want with such large quarters in the city.

Mr. CONANT. They require a great deal of room for Army offices. Governor's Island would not be very convenient for people to go to.

Mr. HERBERT. Does the government own or control any of the property in this block?

Mr. CONANT. No, sir.

APPENDIX B.

Before Committee on Public Buildings and Grounds of the House of Representatives.

Hearing of the representatives of the New York Chamber of Commerce in regard to the passage of the bill before the committee, authorizing the sale of the property belonging to the government in New York, formerly used as a post-office.

WASHINGTON, D. C., *March* 24, 1882.

The Chairman announced that Algernon S. Sullivan, esq., of New York, on behalf of the chamber of commerce, would address the committee.

Mr. SULLIVAN said:

Mr CHAIRMAN AND GENTLEMEN OF THE COMMITTEE: When I had the honor to appear before the committee some weeks ago, I supposed that the action of the committee would have assumed some definite shape before this time, and that it would not be necessary for us to ask your courtesy again. I have learned within a few days, however, that the non-action of the committee is due, to some extent, to the fact that some information asked for by the committee from the Treasury Department (and which the honorable Secretary told me this morning he had directed one of his departments to provide) had been delayed.

I had an interview with the Secretary this morning, and he authorized me to say that he is still of the opinion that there is no business end of the government that makes it desirable to retain this property there now, or within what we call a reasonably near future. Of course that is his judgment, based upon what he knows of the prospective demand for government accommodations in New York.

The assistant treasurer of the United States, Mr. Acton, upon whom I called, authorized me to say the same, speaking for the Treasury Department in its administrative branch there in the city. And I regard his opinion as being well worth quoting and relying upon, by a committee like this, who know what ought to be done. His statement covers a great deal of ground. In the first place, he would be supposed to know what was wanted, not only for the purposes of the Treasury Department, but for the assay office and for the collectors of internal revenue that come immediately within his knowledge. I want to call particular attention to this, because I understand that in a statement presented before the committee there has been quite a special feature made of the fact that two or three of the internal revenue collecting offices are among those for which offices have to be rented. Mr. Acton had reference to them in making the statement which I now give in brief.

The collector of the port authorizes us to say for him that, in his opinion, there is no need of preserving this property for the government. In other words, that nothing that would come within the branch of collecting the revenue can possibly be promoted by the use of any building that can be erected in that city on this site. It is three or four squares removed, and any extension of the custom-house would have to be in a different direction, even for its associate and separate branches, independent of its direct connection.

The Post-Office Department, represented by Mr. Pearson, the postmaster in New York, I also am authorized to speak for. I saw Mr. Pearson day before yesterday, at the instance of the Chamber of Commerce. and he authorized me to say for them, and authorized me to repeat it as from him, that in no possible future would there ever be any need, for postal purposes, or for any of the branches of the public service that might be associated with it, that this particular lot of property should be preserved. I thought that was important, because the opinion of such a man was supposed to be based upon a knowledge of the wants of the government.

Now, it has been represented to you here that the internal revenue offices, the steamboat inspection offices, and the pension bureau, particularly, in New York, now have to be in rented and scattered rooms. Reference was also made to the rooms that are rented for the use of the quartermaster's, and perhaps some officer of the ordnance

departments, under the Secretary of War. These are offices that are rented in the of New York.

I have to submit to you, first, in reference to the argument that will be made u those facts, that I am satisfied that no business view of the wants of the governn would sustain the proposition that it was practicable and desirable to erect a buil at the corner of Nassau and Liberty streets—that is on this old post-office site- those different purposes. In the first place, the department for the inspectio boilers, &c., is well and suitably located now, without the necessity of any fur expenditure. There are rooms for them that are quite adequate in the present p office building, where the United States courts are held. So much for that. office of the War Department, where the quartermaster's and ordnance offices located, requires, besides the rooms for the clerks, rooms for storage purposes. T have samples on hand; they receive goods and they deliver goods. There is, in o words, need for a warehousing room in connection with their offices; and I do think that anybody, if he was left to select a proper accommodation for such a dep ment, would dream of taking such a central, crowded, and valuable piece of gr as this which we are now referring to, for the use of such a department. An ordi store or warehouse, in any part of the city, such as could be purchased for $20,0 $40,000 would now, and for an indefinite period, answer the purpose, I think (and is the opinion of business men), as well as one of these costly and expensive build that would be erected on this location.

The internal revenue offices can possibly be concentrated in one place. They in their nature and under the law, distinct offices. One of them could be locate a building anywhere within the lower part of the city of New York; there is no d about that. But, so far as that is concerned, it would be no better to have it loc here on Nassau street than it would to have it located on Courtland or Liberty st farther west; the precise location of it I forget, for the moment. I have been in t offices, and I am only speaking within the facts. You go down Liberty street and go up the ordinary passage-way in a building erected for stores, and in two or t large rooms over a store, you find the collector, with ample accommodations, like any ordinary merchant, and you see at once that the facilities for the disch of his duties are all furnished by giving him two or three good rooms in the se story of an ordinary building. I do not want to belittle or underrate the import of his office at all, but I am speaking of it as it has been for the last twenty yea New York, and these facts are quite obvious to anybody who will visit the office; business requirements show this to be so.

As to the pension office, I am not able, I confess, to say just how much is need the way of room, for the purposes of that department. I know in the past that o two rooms, such as an ordinary disbursing officer would want, have been suffic and the duties have been discharged quite conveniently. How much room, unde present enlarged duties imposed upon that department they might require, I an prepared to say.

Mr. HEWITT. They are very well accommodated in the building they hav present.

Mr. SULLIVAN. Now then, here is a lot about 185 feet long in one direction and than half as wide again, in a location which is probably the very center of the fi cial and exchange and commission business of the city of New York. It is withi most valuable little circle that New York City has, or probably ever will have, a believe that it is the fact that it has received its maximum in value. This pro is said by some to be worth as much as $600,000, and by some it is said to be worth n 1,000,000. If it should be put up at public auction we desire, first, that the Un States Government shall receive, to the last dollar, all that it is worth. For such o as we are talking about, therefore, it would seem to be a needless use of a valu and desirable property by the government, because the accommodations and facil would be much better and much more economically furnished elsewhere. Th what we have to say about that.

Mr. MCCOOK. Purely on economical grounds, have you any idea of the amou rent the government pays for the buildings you have been speaking of—these two o of the collector of internal revenue, for the army building at the corner of Hou street, and the pension building?

Mr. SULLIVAN. Yes, sir; I have an idea about it. I have not seen the leases. I t the statement made by Mr. Conant, who is now here, is not far out of the way, for these different offices the government has been paying, under the leases made tofore, in the neighborhood of $50,000 a year. So far as I know, I think he has able to give a correct statement about it.

Mr. BEACH. That is a little in excess of the actual payments, I think. The s ment that Mr. Conant has made is $33,000.

The Chairman (Mr. SHALLENBERGER). I will ask Mr. Conant how that state was secured?

Mr. CONANT. I got it from the figures of the Treasury Department.

Mr. SHALLENBERGER. I see that the figures you give of the rents that have been paid heretofore, are $50,000?

Mr. CONANT. Yes, sir; it was about $50,000 formerly, but $33,000 is the amount of the present rents paid. This is last year's rent. The rents from next May are not given. The increase would probably be about 10 per cent.

Mr. SULLIVAN. That brings us down to the practical point, the question raised at present, what is the condition of this property. It is not much better than a rattle-trap; at any rate, the improvements are not suitable for any permanent business purposes. The government cannot use it for anything but a kind of a warehouse, and in respect to fire, it would be a piece of folly for a government agent to take the risk of using it for storage purposes. At present the buildings are an eye-sore, and an injury to the owners of the adjacent property. Nobody knows exactly what improvement to make of the rest of the block. As they look at it, they cannot see that the government will ever be justified, in any period of time which men have to forecast in reference to making their own improvements, in erecting a building there. Such a building as the government would be likely to erect, if they undertook to do it, would be started with an appropriation of a million dollars a year, and the total expenditure would be so many millions, that it cannot be conceived that the representatives of the government would engage in such an undertaking unless there was a paramount necessity for its use.

Now observe this property is segregated; it is separated from the Treasury Department, the assay office, and is disconnected by distance from any other of the great departments, and cannot be made an adjunct to any of them. The government probably will, at some time, erect some other public buildings. But the point I call attention to is that for the purposes which are necessary they can get ground at one-tenth of the cost of the value of this property, and they can erect thereon accommodations that would better, practically, subserve the wants of the government than would be practicable here. But, as I have said, for the ordnance and quartermaster's departments it seems absurd to talk about putting storage rooms in such a location as this, and the necessities of the pension and internal revenue offices would only require one-fiftieth part, you may say, of the space available in a building that would properly be erected in that location.

In that view, therefore, we feel justified in saying to you as Representatives in Congress, that it is not property which the government needs, and that it is not likely to need it in the future, or in such a future as we are likely to contemplate. I know that the government is not compelled to sell a piece of property because it does not want it to-day, if it may want it hereafter. On that point, I think it is a fair argument to say that when deciding to hold and reserve title to property, the value of it to the community is something that ought to be taken into account. If it were outside property it would be reasonable enough for the government to say to the citizens, "Do not seek to get that, it interferes with nobody." But it is not right to hold it indefinitely where it is a real and substantial injury to the city; or, if the government were likely to improve it within three or four years, and would say "We will keep it in its present condition," and properly notify everybody around there of its intention to improve it, then, of course, that would be practically saying to the owners of property around there "Until we notify you what we are going to do with it, you will have to make a venture in regard to your business; will you erect banks, office building, or restaurants, or what will you do?"

The CHAIRMAN. Is any of that property at present in the nature of a public nuisance?

Mr. SULLIVAN. If you mean a legal nuisance that could be abated, it is not. It is an annoyance and a disadvantage. I am not wishing now to say that there is anybody there doing anything against the law or doing anything that anybody can complain against. But the only use, practically, that it can be put to is that which Mr. Conant makes of it. He cuts it up into little tenements and shops, which are nice and respectable enough, and they are used for variety stores, &c. He cannot do anything better with it, I suppose. My remarks are not in a spirit of criticism or fault-finding, and I do not intend anything offensive towards Mr. Conant, to whom I took the liberty of addressing a note asking him if he would be with us to-day, he being for many years the lessee of this ground and property. Some of the owners of property which is adjacent do make complaints that contemplated improvement which they might want to to make on their property would be interfered with by this being a lease at will, and one liable to terminate at any moment, and consequently that there are things neglected in respect of water-closets, drainage, and things of that kind, that would make it very offensive to tenants. But that comes short of what I understood you to mean when you spoke of its being a nuisance.

The CHAIRMAN. But such a charge has been made?

Mr. SULLIVAN. Yes, sir; so far as I know, it is about what I have stated.

Mr. SINGLETON. That is, in its present condition, it is damaging to the surrounding property?

Mr. SULLIVAN. They make complaints to that effect.

Mr. HEWITT. Everybody can see that it is not suitable to the surrounding property, at any rate.

Mr. SULLIVAN. Of course; it is very unsuitable. And therefore I think it is proper for Congress to take into account the relation that it bears to the community. Here is the city of New York; the city has a right to expect that the government will, in dealing with the matter of disposing of such a piece of ground, say to it, "We will either improve the property in such a way that it will not damage, but rather benefit it, the neighboring property, or else we might sell it to men who will be likely to improve it." In other words, we will not by merely sitting still, let our ownership retard the development and improvement of the city, especially such a city, and such a quarter of it as this.

Now, I have to bring in the name of the chamber of commerce here, and to say that I speak as a citizen of New York, and that I am not here as an attorney in any sense. I have not the remotest interest, personal or professional, in this matter, beyond my interest as a citizen of the city of New York. The chamber of commerce contemplate (if the committee decide to report favorably the bill to sell this property at public auction, as we ask) becoming bidders when the property is offered for sale. But, although we contemplate becoming purchasers, we believe that we are urging such action in the interest of the public, and are not governed wholly by our personal feelings in the matter. The chamber of commerce authorizes me to say, that if the government should conclude to sell the property, and we should become the purchasers, we should build a structure not for the purpose of making money for the chamber of commerce (although we should have apartments in it that we would rent for the purpose of getting interest for our outlay), but we want a place for the safe-keeping of records which every business man in the United States wants to have preserved; we want facilities for the conducting of the branches which collect and collate and diffuse information that is invaluable not only to the merchants and the business men of the country, but to the government itself. We want to have, in a suitable locality, a reception room where, when a committee of Congress comes to New York, they can meet the merchants under suitable and convenient circumstances; where the representatives of foreign governments, and of the great commercial and manufacturing interests of the world, can come directly in contact with business men during business hours. There must be such conveniences down in the lower part of the city, in about this location, where the men whose hands are on the levers of the business machinery of the country can conveniently, during the business hours of the day, resort at appointed times, and where these meetings and conferences can be had.

I think this is so near a public use that it might be considered by a committee of Congress in determining this matter, and without feeling that they are looking to private rather than public or government interests. I think it comes so nearly within what might be considered public policy, that I may fairly urge it upon the attention of gentlemen like yourselves, as a thing which should have weight and be entitled to consideration.

The question has connected itself with a proposition that, if the chamber of commerce shall become a bidder, a concession shall be made to it in the amount of the purchase money. That, I beg to say, is not a vital question in this case. We do not make that the basis of our application, as being a *sine qua non*, or being the chief consideration. We ask that if your committee report a bill authorizing the sale of the property, and fixing, if you please, a minimum below which it shall not be sold, that an allowance shall be made to the chamber of commerce for what we call a contribution made by its friends (for they could not as a body contribute) to enable the government to buy this very property when it purchased it in 1860. I think it is spoken of as $50,000.

I hope the committee will pardon me for saying one word now in reference to that. I have been informed that our fellow-citizen, Mr. Conant, in making his statement to the committee, thought that it was proper for him to animadvert on what was submitted by me on that subject, as to the payment of $50,000. He is reported to have said that the amount of $50,000 was an overstatement of what had been contributed He is in error, unwittingly, about that. He represents that the amount, as he puts it which was received by the church, the vendors of this property, was only $34,000.

I will not contradict or undertake to contradict that statement, or attempt to show how much that church or corporation received for it. I do not want to go into questions, now, about which there may be any delicacy or secrecy, for I do not know anything about such matters. But that the chamber of commerce, or the individuals who acted in this matter for them, paid the $50,000, is the truth of the case. The information that I have about that, comes from gentlemen whose names, if I repeated them would be taken as the synonym of absolute verity, and I am sure I cannot be wrong about it. If the church obtained only $34,000 (of which I cannot make any contradiction, for I do not know), I think it will be found that there has been nothing in the statement already made by me but what is a fair statement of what is true; and

have no doubt that the rest of that money, wherever it has gone, has been used properly. It may have been paid in commissions, or fees, or agencies; I do not know, and I ought not to venture conjectures where I am in the dark. But that it was paid, you you may rely upon it, gentlemen, as I do, and that the facts are just as they have been represented before. Where the error is, I cannot say.

Mr. FLOWER. I think $8,000 was paid as commissions, &c.

Mr. SULLIVAN. Unless some questions are put to me, I do not feel justified or think it is requisite to take up the time of the committee further. I assume that this committee is prepared to recommend the sale, unless they think the government needs the property, provided the mode of sale is such as to commend itself, in a business way, to the committee. The chamber of commerce is made up of business men and merchants, and they say to me, "Have it understood that we do not want anything in the way of favor; we want it for the government as well as for ourselves. Put it up and let it be sold at public vendue, under circumstances that will elicit the best price. We expect to bid. If somebody thinks the property is worth more than we feel able to pay, they will have to take it; but we would like to try."

I took the liberty of asking Mr. Wilson, the secretary of the chamber of commerce, and Mr. John G. Davis, who is one of the best known of our retired business men, to come here with me to-day, and they are here. Mr. McCook, one of the Representatives, of my own district, who is interested in this matter as a public man, and also Mr. Hewitt, who at one time gave this subject special attention, are also present, and I would be glad if the committee would question them in regard to any fact they may be acquainted with in this connection.

Mr. BEACH. I would suggest that, as our time is limited, we had better hear the other side represented by Mr. Conant.

The CHAIRMAN. It would be proper to state that the bill before the committee which seems to have delayed the sale of this property, was introduced by Mr. Beach, and it proposes to construct, on this very plot of ground, a government building, and appropriates a million dollars for that purpose. That bill will be referred to as in the hands of this committee, if we report a bill recommending the sale of this property, and we will be required to explain on the floor of the House why we have not reported that bill; and if we intend to report it favorably, and if not, why not. I should like to ask Mr. Beach to occupy a short space of time in explaining the propriety of the government's holding this property for the purpose indicated.

Mr. BEACH. I have nothing to say in regard to that bill. The bill was handed to me on the floor, with a request that I should introduce it, and I did so. I did not know in whose interests the bill was drawn, in fact knew nothing at all about it. But since the introduction of the bill, I understood that Mr. Conant, the lessee of the property, was the party that was interested in the introduction of it, and he is here and can speak for himself.

Mr. MCCOOK. Let me make one suggestion in that connection. New York City has seven Representatives in Congress, and, so far as I have any knowledge, none of them were solicited in regard to the preparation and introduction of that bill, and it is my belief that not one of them favor it.

Mr. BEACH. The view I took of the matter when the bill was handed to me was this: that the right of petition was a right guaranteed by the Constitution to every district, and so long as the bill was not obscene, profane, or improper, it would be proper to introduce it.

Mr. MCCOOK. I do not make any reflection upon you, Mr. Beach, at all.

The CHAIRMAN. Mr. McCook, I think, refers to the fact that while a gentleman has a perfect right to introduce a bill, yet it is customary for the member in whose district the proposed expenditure is to be made, to do that.

Mr. BEACH. I suggest that we are wasting time, and as Mr. Conant is here, we had better hear him in regard to the matter.

Mr. MCCOOK. I personally would like to hear Mr. Conant talk; but I do not think there can be any other side in which he is not interested. He is the lessee of this property, and so long as he is in possession of the property, he has rights as a tenant. The gentlemen who compose this committee have the interests of the government in view. It is a question purely for the government to determine, through their Representatives in this committee, and subsequently in Congress. While I would like to hear Mr. Conant, yet I would like also to make these suggestions.

The CHAIRMAN. If Mr. Conant speaks on any other matter than the public interests, he cannot be heard.

Mr. CONANT. I am quite ill this morning and not really able to be out. I did not hear all that Mr. Sullivan has said, and I should prefer to wait until his statements have been put in writing, and then I will make some reply to them.

There are some things in which I differ from him in regard to the pension office, the Army building, and also with regard to the value of the property. If this bill had gone through four or five years ago, when it was first introduced, the property would have been sold for $200,000 or $250,000. To-day it is worth, as he says, $600,000; I

think it would bring nearer a million; and I think in three years from to-day it will bring from a million to a million and a half of dollars. That is the value of the property. The government cannot lose anything by holding on to it. It will need, within a period of ten years, a new custom-house in New York. They have to hire additional rooms outside, not adapted to the custom-house business, and these things should be taken into consideration.

But, as I say, I am not able to talk to-day, and I would prefer to let the committee hear from me hereafter on this subject.

As regards the payment of that money, I have the statement of the treasurer of that church that their receipts were $35,000. They make no claim for the balance. The chamber of commerce, by their report, show an assignment of $35,000, and there is an expenditure of $5,500 in Albany, which brings it up to $40,500. I do not propose to go into that. If the government owns any property for which they have not paid the full amount, as I said before, I think the money should be returned to these parties. But that the government requires that property for its own use, I think there is no shadow of a question.

Mr. SINGLETON. I suggest that we hear Mr. Hewitt in regard to the matter.

Mr. HEWITT. If the committee desire, I will say a few words. I think there is no question in the mind of any Representative from New York that the government ought either to improve this property, or, if it is of no use to the government, it ought to sell it. It is, in fact, a nuisance, though it may not be one in law. But it offends the eye, and it offends the sense of propriety of everybody who goes by it. It is unsuitable to this place. It is a drawback to the neighborhood and to the business interests of that part of the city. How far the government are likely to require this property at any future time I am not prepared to say. I know of no use to which it can be put, now, advantageously. Mr. Conant has suggested that there will have to be a new custom-house. I do not think even he will pretend that, if a new custom-house were to be built in New York, this site is anything like adequate for such a purpose; the government would have to buy much more property than that. The present custom-house is the most solidly built structure in New York. It will bear five additional stories on top; there is no difficulty in that. It can be enlarged to any extent, and the site can be increased to a reasonable extent.

It has been suggested, and it is true, that we need a new assay office, and that this site may be appropriated to that purpose. That would only continue a nuisance in that neighborhood. The fumes of the sulphurous gases given out by the chimneys of that building are a nuisance, and so reported by the board of health. If it is necessary to have an assay office in New York, it should be put somewhere where it will not destroy the most valuable property in the city of New York.

The other items to which Mr. Conant has referred, are of a trivial nature indeed. The hire of buildings or offices that the government may require, is such a small item that it is not worth taking into account. The interest which the government would derive from the sale of this property would cover it many times over. It is too valuable for these petty offices, which are better located in some other part of the city.

The government is not doing justice to the city of New York in regard to this property. The government is renting this property for a nominal sum totally inadequate to the value of the property, but as much, probably, as it will bring in its present dilapidated condition; and the government is paying no taxes on the property for which it is deriving rent. That is not the spirit of the law; it is not equitable. If the government desires to hold this as a speculator in real estate, for a rise, as suggested by Mr. Conant, let them report a bill to pay taxes.

Mr. SULLIVAN. The property is $16,360 in arrears for assessments for street improvements in front of it; that is for street improvements alone.

Mr. HEWITT. I suppose the property is worth $600,000, and might bring at auction $1,000,000. A piece of property of that size, is almost unattainable in the city of New York, in that locality. I have always dissented from the doctrine that the property should be sold by private contract, or that the Chamber of Commerce should have it for any fixed sum. I have always protested against that. The government ought to have whatever it will fetch in the market; and if the Chamber of Commerce are able to buy it, I hope they will put up a suitable building. I confirm all that Mr. Sullivan has said with regard to the claim of that institution, but I will not sacrifice one dollar of the government's rights for the sake of the Chamber of Commerce. I should be glad to see them have this property; they would put a fine building on it.

I speak the universal voice of the city of New York when I say that you should decide the question, primarily, whether the government wants to keep it, not for the purposes of speculation, as Mr. Conant says, but for the purposes of use; and if you decide you want to use it, then bring in a bill to put up a building suitable to the property, and convenient to the public; but if you come to the conclusion that the government does not want it, I say, as a simple act of justice, this property ought to be disposed of to the highest bidders, and the money put into the Treasury.

Mr. BEACH. What have you to say, about the $50,000?

Mr. HEWITT. That it very simple. There is no doubt that sum was raised. I was one of the contributors. It was not raised by the Chamber of Commerce, but by individuals. How much went into the church treasury does not concern anybody. The United States Government got a guarantee of $50,000; that is the only fact. And the persons who contributed that money have agreed that it shall go to the Chamber of Commerce. I am astonished that Mr. Conant, or anybody else, should raise that question, it is so utterly trivial. If the committee do not see fit to put in a provision of that kind, why leave it out, and let the matter rest on its merits. I confess to some annoyance myself that anybody, being a tenant of that property, should obstruct legislation in this particular, and introduce bills through members of Congress in order to obstruct the final passage of a bill which looks to the public interests solely. It is not in good taste; I say it in all frankness to Mr. Conant, who is an old friend of mine. I say the methods which have been adopted in this case are not creditable.

Mr. CONANT. You will recollect when I came down here the first time, we went to see Mr. Fernando Wood, and I spoke about that bill, which was a bill to sell the property to the Chamber of Commerce. You asked me if I thought that was right, and I said I did not. You did not think so, either. We went into the committee and we saw the bill altered so as to offer it for sale at public auction. That satisfied me; I had nothing to say about it at that time.

I did not speak of the government being a speculator at all. I only replied to Mr. Sullivan, when he said he thought the property had reached its maximum price. Now, at that time, when I first spoke to you about that bill, the property was worth $300,000 to $400,000. What it would bring now is from $600,000 to $1,000,000, and there cannot be any question that if the government should not sell it, they would get more for it by-and-by. It cost the government $2,500 a year to take care of it before I took charge of it. I have spent a good deal of money, and I have kept it in order. The people of the neighborhood have been pleased because it has been taken care of, and not left as a nuisance, as it was before. I have done nothing but what any individual would do, and when the government has put it up to bid, I have bid, because I have the prior right of equity, if there is any such right. But if the government wants to build, or sell it, I have not a word to say, and am ready to go out at any moment.

Mr. HEWITT. I want the committee to understand that any rise in value by having held it, or holding it hereafter, is at the expense of a community which has as good claims to consideration as the United States has, and particularly so when the rise has produced greater damage to the city of New York than you would guess. This property, if properly improved with a million dollar building, would be probably assessed on the basis of sixty per cent. of its value, at a million or twelve hundred thousand dollars, and the rate of taxation is about two and a half per cent., which would produce from $25,000 to $30,000 a year in taxes alone to the city of New York, if it was thus improved.

Mr. CONANT. When I first leased this property, the question of taxes came up, and I said I would not pay any taxes; that I was paying $5,000 a year rent, and I thought it was all the property was worth. I consulted the government attorney, and he said the States had no right to tax the United States for its property.

Mr. HEWITT. That is true; but it is a grievance that ought to be remedied in this case.

Mr. COOK. Has anybody in the Treasury Department recommended the erection of any building on this property?

Mr. HEWITT. No one that I know of.

Mr. SULLIVAN. All the secretaries before Secretary Folger, have recommended the sale of it; and Secretary Folger told me this morning that he thought it was for the interests of the government to sell it, so far as he knew.

Mr. HEWITT. Do you agree that these gentlemen ought to get that officially from the Secretary, before they act?

The CHAIRMAN. If the committee will pardon me, I think it is just as well that we discuss this matter very candidly, and without the slightest personal reflection on any one. Mr. Conant has been before the committee, has made his statement, and it will go for just what it is worth; no more, no less. The committee will bear with me when I say that the difficulty in disposing of this matter has been caused by just such remarks, upon the floor, as Mr. Conant has made here to-day. That has defeated this bill in every instance. This committee desired to know all that could be known against the bill from New York City itself. I do not consider that the introduction of this bill has, in any way, retarded the real progress of this measure. It has developed and uncovered all there is against it; and that is what we wanted.

Mr. McCOOK. May I ask if, with the exception of Mr. Conant, any one from New York, either in an individual or representative capacity, has opposed this measure?

The CHAIRMAN Not to my knowledge, although there has been the fullest opportunity given. But had we taken the bill on the floor without this discussion, we should not have been able to say that we had considered that side of the question at

all. I should also remark that this deduction of the $50,000 is in the bill referred to the committee.

Mr. HEWITT. It was in the bill I originally introduced myself, because I think it is just. But, I say, if it is any obstacle, take it out. I do not think it becomes the Government of the United States to receive a bonus to aid in buying a piece of property, and when it sells the property, to put the sum into its pocket. I do not think it is just. It is not because the people of New York ask for its return, but the dignity and good faith of the government require that it should be returned. But it is too trivial to allow it to be an obstacle in the way of reporting the bill; it is too trivial to make it an impediment.

Mr. McCOOK. I cannot say anything to add to the force of what has been so well stated by Mr. Hewitt in regard to this matter, except this: That it seems to me that the question of what the committee ought to do is a simple one. The question is, whether it is in the interest of the government to dispose of this property in any way, and, in the absence of evidence to that effect, I assume it is good *prima facie* evidence that when the Representatives in Congress from the locality, with entire unanimity, favor a bill of this general character, that the property ought to be disposed of, because in theory and fact they represent the people in interest.

I agree with Mr. Sullivan as to the possible extension of government buildings that are now in use. Whether the custom-house will ever be extended or not, I do not know. But should it be, this site would be, to some extent, if not altogether, unsuitable for this purpose. As to the internal-revenue offices, the Army building, the assay, and the other offices, I think, with Mr. Hewitt, that they should not be taken into consideration at all. The amount of $40,000 a year, which is paid in rent for those offices, will, in my judgment, year by year, steadily decrease, because, as we all know, the internal-revenue system will probably decrease after a while. They have already reduced, in my time, the offices of internal revenue in New York from four to two, thereby reducing the expenses of buildings and everything else; and perhaps in the far distance they will consolidate the whole city of New York in one collection district.

Again, if this property is worth $600,000, at four per cent. that is $24,000; if the building costs $1,000,000, at four per cent. that is $40,000, making a total of $64,000, to put against this $40,000. So that, as a matter of economy in dollars and cents, it seems to be the interest of the government to dispose of it.

As to the question of whether the property has reached its maximum value, which, I think, is the only possible question, I am not able to express an opinion. Gentlemen who have lived there longer than I, and who are acquainted with the value of real estate, ought to be listened to.

Mr. SINGLETON.. Do you think the government has any right to hold any property for speculative purposes?

Mr. McCOOK. I do not think so; that is my construction of it. It may be a mere sentimental idea of mine, but I do not think it is becoming for the government to do it. I know that the sentiment of the people of New York is unanimously in favor of a bill of this kind. I never have favored the limitation of this property as to price. I have always favored the $50,000 clause, on the principle of equity. But I think the chamber of commerce would be perfectly willing to have that stricken out if it stands in the way; I think the committee ought to get the opinion of the Secretary of the Treasury on that subject.

Mr. BEACH. Was not that one of the causes of the failure to pass such a bill in the three last Congresses—that $50,000 clause?

Mr. McCOOK. One of them, very likely.

The CHAIRMAN. We have present, also, a representative of the chamber of commerce, and Mr. Flower is here also. Our time has about expired, but we will hear them if they have anything to say.

Mr. JOHN G. DAVIS said: I merely want to state that the merchants of New York contributed $50,000 towards the purchase of this property. How that money was spent we do not know. The government does not now use it for the purpose for which they had the right and title to use it. I think the property ought to be sold if it cannot be used for public offices. It would be better for the government, and better for the city, and then we would get some taxes which we do not get now. It is a nuisance as it stands, and the property around in the neighborhood is not improved because that is not improved. There are other nuisances around there which, after a while, we will, perhaps, call your attention to, such as the assay office, &c. But at present I do not think it worth while for me to consume the time of the committee with any further remarks.

Mr. FLOWER. I do not know that I can add anything to what has been said. I would treat this as a business matter. If I owned this property, worth from $600,000 to $1,000,000, which I only needed for comparatively unimportant offices, I would sell this valuable land and put my offices in a location where land was cheaper. This land will fetch a large enough price to build any building that the government might want

for its other offices in addition to the price of the purchased land. I would not ask the government to do anything that I would not do myself, in a business way. The $50,000 I do not care anything about. The merchants of New York gave that, and they did not hitch a string to it to pull it back. I do not think it matters to them whether you put it in the bill or not. I believe that if you report a bill with safeguards around it, so that this property could not be sold for a song at auction, and so that the government could not be cheated, you will do all that the citizens of New York want you to do, and all that the government requires you to do. As a business man I would recommend the government to sell this property and put the proceeds into the Treasury.

The CHAIRMAN. Reference has been made to a minimum price under which the property should not be sold.

Mr. HEWITT. My idea was to give the Secretary of the Treasury power to fix the minimum. Under any circumstances the sale ought to be confirmed by the Secretary. There might be a "ring" made to affect the bidding, and the government ought to reserve the power to have the sale confirmed by the Secretary of the Treasury. I think the minimum could safely be fixed at $500,000. There is no sort of chance that anybody would think of bidding anything less than $500,000. (To Mr. Wilson). That is your opinion, Mr. Wilson, is it not?

Mr. WILSON. Yes, sir; that is so.

Mr. SULLIVAN. If the Secretary of the Treasury responds to your previous inquiry, will your committee be likely to act within a few days on this subject?

The CHAIRMAN. I can only say that personally I would favor very early action, because it is important that the government should lease the property for a term of years if it is not sold, and in order to do that advantageously, this question ought to be settled.

Mr. SINGLETON. I make the motion that when the committee adjourns, it adjourn to meet to-morrow morning at half-past ten o'clock, for the purpose of disposing of this question. Agreed to.

The committee then adjourned.

APPENDIX C.

TREASURY DEPARTMENT, *March* 25, 1882.

SIR: A delay has occurred in replying to your letter of the 4th ultimo, first, by reason of mislaying the letter, necessitating request for a duplicate.

The information has been gathered from the different departments in regard to the rent paid, but that stated by the War Department not being complete, a full report is awaited from the Quartermaster General.

I inclose herewith a statement of the rents paid by the various departments, which is believed to be complete with the exception of that paid by the War Department, and this will be modified when further information is received.

If it should be the opinion that the erection of a building for the accommodation of various government officers in New York is advisable, it is my judgment that what is known as the old post-office site should be sold, and that the new building should be located on a site purchased for the purpose in some portion of the city—say, in the vicinity of the Battery, where land is of less value than that owned by the government. I base this judgment on the fact that the old post-office site is too small for such a building as the government would wish to erect; that it is in a locality where ground is of very great value, and that for the price for which it could be sold much larger space could be got elsewhere, while the new purchase would be in a location quite as convenient for government purposes.

In this connection, you are respectfully referred to former letters from this department, recommending the sale of this property. I have not sufficient information in my possession on which to base a settled opinion as to the advisability of erecting another public building. Offices have to be rented for the collector of internal revenue and for the several other officers, as shown by the inclosed statement. I am also informed by the collector of the port that he is somewhat crowded for room. It is suggested that the present location of the assay office is objectionable to owners of property near it, by reason of the vapors arising therefrom, while the building itself is weak in structure, cramped in space, and not as well designed for the purpose as a new one would be. I incline to the opinion that there will be, before long, a need in New York City of more and better rooms for the use and accommodation of government officers.

Very respectfully,

CHAS. J. FOLGER,
Secretary.

Hon. W. S. SHALLENBERGER,
Chairman Committee on Public Buildings and Grounds, House of Representatives.

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1083.

PUBLIC BUILDING AT PATERSON, N. J.

APRIL 20, 1882.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. LEWIS, from the Committee on Public Buildings and Grounds, submitted the following

REPORT:

[To accompany bill H. R. 5896.]

The Committee on Public Buildings and Grounds, to whom was referred the bill (H. R. 5026) for the erection of a public building at Paterson, N. J., would report as follows:

The committee find that Paterson is a growing city, which had in 1850, 11,000; in 1860, 19,000; in 1870, 33,000; and in 1880, 51,500 inhabitants.

There are located at Paterson large manufacturing interests, among which are about one hundred silk interests, with about 15,000 operatives; three large locomotive works, with about 3,000 operatives; two large rolling mills, with about 1,000 operatives; large flax interests, jute mills, cotton factories, and many smaller industries, representing a large outlay of capital, and in the aggregate giving employment to many thousand employés. There are three great railway lines entering the city, which carry to and from it about 100 tons of freight daily. The revenues of her post-office are rapidly increasing, as shown by the following letter from the Post-Office Department:

OFFICE OF THE AUDITOR OF THE TREASURY
FOR THE POST-OFFICE DEPARTMENT,
Washington, March 23, 1882.

SIR: I have the honor to inform you that the gross receipts for the office at Paterson, N. J., were as follows for the fiscal years named:

Ended June 30, 1877	$21,491 24
Ended June 30, 1878	19,598 79
Ended June 30, 1879	20,329 40
Ended June 30, 1880	24,822 85
Ended June 30, 1881	27,979 56

Respectfully,

J. H. ELA,
Auditor.

Hon. JOHN HILL,
House of Representatives.

The amount of rent now paid by the government is $800 per annum, and for this amount they receive very inadequate accommodations.

In consideration of the foregoing facts your committee would recommend the passage of substitute for bill H. R. 5026 herewith submitted, the cost of said building when completed not to exceed the sum of $80,000.

C

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1084.

PUBLIC BUILDING AT JEFFERSON CITY, MO.

APRIL 20, 1882.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. DE MOTTE, from the Committee on Public Buildings and Grounds, submitted the following

REPORT:

[To accompany bill H. R. 5897.]

The Committee on Public Buildings and Grounds, to whom was referred the bill (H. R. 4366) providing for the erection of a public building at Jefferson City, Mo., for the use and accommodation of United States courts and other government offices, having had the same under consideration, respectfully submit the following report:

We find, from evidence and statistics shown and submitted for our consideration, that Jefferson City, the place where said building is proposed by this bill to be erected, is the capital of the State of Missouri, located near its center, on the Missouri River, and now easy of access from all portions of the State by means of ample railroad and water transportation.

That Missouri is the fifth State in the Union, containing a population of near 3,000,000, and an area of about 70,000 square miles, and that her annual internal-revenue paid into the Treasury of the United States amounts to over $5,000,000.

That no public buildings have ever been erected at the city of Jefferson.

That the United States circuit and district courts for the eastern division of the western district of the State, comprising forty-three counties, a territory more than one-third of the whole State, are held there. That four sessions of said courts are held every year; that the number of new cases appearing upon the docket of the circuit court in the last five years amounts to 984; and that in the same period judgments have been rendered to the amount of $1,888,456.25.

That the building occupied by said courts, and offices connected therewith, now the best that can be obtained in said city of Jefferson, are a part of a block constructed of combustible material, providing no security for the protection of valuable records and papers against destruction by fire or burglarious pillage.

That for the use of said courts the government now pays an annual rental of $2,520.

That the building occupied for post-office in said city, which is as commodious as can be obtained, is insufficient, inconvenient, and very insecure. The amount of cash receipts in sale of stamps amounts annually to about $10,000, with a net revenue to the government of over

and by petitions numerously signed by the people in nearly
counties of said district; also by report of Secretary Boutwell, n
response to a resolution of the House of Representatives, second
Forty-first Congress, as follows:

Resolved, That the Secretary of the Treasury be directed to report to th
which, if any, of the public buildings not yet commenced, for which estima
been submitted, at the present session, to either House of Congress from his
ment, in his opinion the public exigencies require to be commenced during
fiscal year; and on which, if any, of the public buildings now in process of
tion, for which estimates have so been made, the public exigencies require
to be continued during the said year.

In which the Secretary states, among other things:

Of the new works proposed the greatest necessity exists, as far as the facts ar
to this department, at * * * Jefferson City, Mo. * * * .

That the inhabitants of the city of Jefferson, by its board of ald
have, under date July 15, 1872, by ordinance duly passed and
force, obligated themselves to pay for and convey to the United
in fee simple, a suitable site for said building, without any
charge on account thereof to the United States.

Your committee therefore respectfully recommend the passag
bill, and that for the erection and completion of said building
be appropriated not exceeding the sum of ——— dollars.

All of which is respectfully submitted.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1085.

PUBLIC BUILDING AT CARSON, NEV.

APRIL 20, 1882.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. DEMOTTE, from the Committee on Public Buildings and Grounds, submitted the following

REPORT:

[To accompany bill H. R. 5898.]

The Committee on Public Buildings and Grounds, to whom was referred the bill (H. R. 1007) for the erection of a public building at Carson City, Nev., have had the same under consideration, and beg leave to report as follows:

Carson City is the permanent capital of the State of Nevada, made so by constitutional provision. The State as a whole comprises but a single district for judicial, revenue, and the other purposes of government. The government derives annually from this State, approximately, a quarter of a million dollars. The government owns no building of the kind contemplated in this bill in any part of the State. The officers of the various departments maintain their places of business in different towns, and in many instances in unsuitable and unsafe buildings. There is no suitable room for the sessions of the district courts, and the testimony shows that these tribunals are called upon to transact a large amount of important legal business.

Under this bill it is proposed to concentrate all the offices of the government in that State in one fire-proof building at the capital, with suitable vaults and other conveniences for the safety and preservation of the records of the several departments.

The government is now paying annual rents in Nevada, as ascertained from the proper officers and departments, as follows:

For circuit and United States district courts	$600
For surveyor-general's office	600
For United States register and receiver	360
For United States post-office at Carson	360
For United States collector of revenue	300
For United States attorney, marshal, and clerk of court, about	600
Total	2,820

For these reasons your committee recommend the passage of said bill by substitute here presented.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1086.

ELLEN GILLESPIE.

APRIL 20, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MATSON, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 4082.]

The Committee on Invalid Pensions, to whom was referred the bill H. R. 4082, have had the same under consideration, and beg leave to report as follows:

This bill was before the Committee on Invalid Pensions of the Forty-sixth Congress, to whom the subject was referred, and favorably considered, and passed the House of Representatives, but was not acted on in the Senate for want of time. We append and adopt as our own the report of the committee of the Forty-sixth Congress upon the subject:

John W. Gillespie enlisted January 21, 1862, in Company F, Twenty-eighth Regiment of Pennsylvania Volunteers, and was wounded at the battle of Antietam on the 17th of September, 1862, and was discharged by reason of said wound February 6, 1863. He was pensioned from the 10th of November, 1865, at $3 per month, and his pension was increased to $5 per month from May 6, 1874. He died at his home in Cambria County, Pennsylvania, on the 9th of July, 1878, from the effects of wounds received in service. At the time of his death he left a widow, Ellen Gillespie, and six children. The widow filed her application for pension on the 15th of October, 1878, and on the 5th of February, 1879, it was rejected because her husband's death "was not a result of his military service."

The committee have carefully examined the evidence on file in this case, and they are of the opinion that the evidence shows clearly that the wound received, and for which John W. Gillespie in his life-time was pensioned, was the cause of his death.

Dr. R. Deveraux, a practicing physician of good standing, and who was the family physician of John W. Gillespie for about eleven years preceding his death, on the 28th day of October, 1878, testifies as follows:

"His (Gillespie's) wound is a gun wound, passing through the right arm about the lower third of the humerus, then entering the thorax about three inches below the nipple, a little to the outer side, passing downward through a portion of the lower lobe of the right lung, through the diaphragm, then through or coming in contact with the upper and posterior part of the liver in that region, the labus major, emerging close or within about one inch to the same or right side of the spinal column, about the region of the right kidney, a little above, the course of the ball being downward from the point of entrance to the place of exit; quite an indentation at the place of the cicatrix.

"For several years his symptoms were pain under the ribs of the right side, deep seated, as under and on the liver, described as severe darting or shooting pains, no tenderness upon pressure, not fainting as in abscess; the pains increased in severity each year in paroxysms, sometimes intervening one, two, or three months. The attacks became more frequent, the pain more intolerable, about one year before his death. Secretions, digestion, and action of heart continued normal; a nervous, anxious appearance resulting from continued severity of pain differed him only from his ordinary appearance in health. Dissolution occurred suddenly in my presence; appeared

as usual, suffering much pain in region described; no acceleration of pulse or respiration; lying down, and upon assuming a sitting posture, placed both hands immediately over the location of the pain in right side; pressed firmly; at once expired, respiration and circulation immediately ceasing. No post-mortem being made, from the obscurity of the case and its symptoms, I am led to believe that the wound, or injury resulting from the wound, was, if not the immediate, the remote cause of his death. I have no interest directly or indirectly in the prosecution of this claim.

"I have been his physician for nearly eleven years, and believe he had no other disease. Gave him no treatment but for pains described, and believe he had no other disease and was treated for none other during the above length of time."

Mrs. Gillespie was left a widow in destitute circumstances, and has six children. Her neighbors speak of her as being a very industrious and worth lady, and that she should be pensioned.

The committee recommend the passage of the bill, believing that this is a meritorious case, with this amendment: Striking out all after the word "volunteers" in line 8 of said bill.

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1087.

JOHN ADAMS.

APRIL 20, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. JOYCE, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 2626.]

The Committee on Invalid Pensions submit the following report:

The petitioner, John Adams, enlisted on Commodore Ellet's ram fleet, at Pittsburgh, on the 14th or 15th of May, 1862, and was assigned to duty on board the "Lioness". At the battle of Memphis, Tenn., June 7, 1862, he received a bullet wound over the left eye, and in the left arm; and while patrolling the river from the mouth of the Yazoo River towards Memphis, August 15, 1862, he was shot from the shore by guerrillas, the ball penetrating above the right haunch, and the wounded man falling down a hatch, breaking right elbow.

Dr. W. L. Morrow, of Freeport, Pa., in his sworn statement, June 14, 1880, says the petitioner is entirely unable to perform any labor, and cannot walk or get up from his chair without assistance, on account of the wound in the haunch bone.

The ground on which the application was rejected by the Pension Office is, that the petitioner was not in the military or naval service of the United States, but in the Quartermaster's Department. Your committee is, nevertheless, of the opinion that he received his disability in the line of duty and that the claim is a meritorious one, and recommend that the bill do pass.

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1088.

ALFRED G. FIFIELD.

APRIL 20, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. RAY, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1020.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1020) granting an increase of pension to Alfred G. Fifield, having had the same under consideration, beg leave to submit the following report:

The claimant was a private in Company C, Twelfth New Hampshire Volunteers; enlisted August 17, 1862; discharged November 17, 1863, on surgeon's certificate of disability, "on account of gunshot wound at Chancellorsville, Va., which caused a resection of the humerus (right arm)." The shot which wounded Fifield hit his right arm near the shoulder and shattered the bone, so that the head and four or five inches of the humerus had to be removed.

[Extract from the letter of Commissioner of Pensions, dated ——— —, 18 , transmitting papers to the committee.]

The claim was originally allowed at $5.33 per month from date of soldier's discharge, November 17, 1863. His pension was increased to $8 per month from September 4, 1865; to $15 from June 6, 1866; and to $18 from June 4, 1872. His subsequent applications for increase have been rejected, because his disability is not such as would entitle him to the next highest rate provided by the pension laws—$24 per month. It is conceded that the injury to the arm is equivalent to actual loss of the same above the elbow, but the rate of $24 per month, which the law provides for such loss, is not provided for a disability equivalent thereto, and unless a person is otherwise so disabled as to be incapacitated for the performance of any manual labor, no higher rate than $18 per month can be allowed.

From the medical evidence in the case we extract the following:

Dr. David B. Nelson, examining surgeon, February 1, 1864, certifies—

The arm is helpless and useless.

Dr. Ira A. Chase, at biennial examination, September 4, 1865, certifies—

The arm is entirely useless; should be increased to full pension.

The board of examining surgeons at Concord, N. H., September 6, 1875, certify—

Disability is permanent, at total third grade.

Dr. D. B. Nelson, examining surgeon at Laconia, February 7, 1876, certifies—

This disability is fully tantamount to the loss of the arm above the elbow. Disability, second grade—$24 per month.

Dr. Chase, again, August 7, 1876, certifies—

The right arm is entirely useless, the head and four inches of the right humerus is gone, and the arm hangs dangling by his side; he could not dress or undress himself if both were like the injured arm, and amounts to total loss of right arm.

Again, the same physician says—

The arm is in the way of laboring; in my opinion the pension should be increased to full pension.

G. P. Conn, M. D., for the board of examining surgeons, Concord, N. H., February 1, 1877, in reply to a letter of instructions from the medical referee of the Pension Office, says—

* * * He was rated at $24 per month. The board would further state that claimant is so far debilitated that the other arm is incapacitated for other than the verlightest of duty; he being able only to canvass for the sale of a book for a long time.

Warren W. Sleeper, M. D., examining surgeon, January 9, 1878, certifies—

Total: second grade, or $24 per month.

The board of examining surgeons at Concord, N. H., January 3, 1879, certify—

He cannot perform any manual labor, nor is this rating in any way considered a equivalent to the loss of an arm above the elbow. Disability total; second grade, or $24 per month.

The affidavits of neighbors and friends of the petitioner are quite as strong as the medical evidence. They testify to his inability to perform manual labor, and to his correct habits of life.

Your committee are of the opinion that from the weight of medical evidence alone the petitioner is entitled to the relief prayed for. We therefore report favorably upon the case, and recommend the passage of the bill granting an increase of pension to Alfred G. Fifield from $18 to $24 per month.

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1089.

ABAGAIL S. TILTON.

APRIL 20, 1882.—Committed to the Committee of the Whole House and ordered to b printed.

Mr. RAY, from the Committee on Invalid Pensions, submitted the fol lowing

REPORT:

[To accompany bill S. 108.]

The Committee on Invalid Pensions, to whom was referred the bill S. 108, submit the following report:

The facts touching the case of Mrs. Tilton are correctly stated in House Report No. 692, Forty-sixth Congress, as follows:.

It is in evidence that the husband of the petitioner, Benjamin Stevens, was a soldier of the Revolutionary war, and was mustered into service on the 18th day of July, 1777, serving as a private in Capt. Samuel McConnell's company, of Col. Thomas Stickney's regiment, of the brigade commanded by General Stark, and was honorably discharged on the 18th day of September, 1777.

It is also in evidence that at the date of the petitioner's marriage with the said Benjamin Stevens she was the widow of David Tilton, and was married to said Stevens on the 31st day of January, 1831, and that they lived together until his death, which occurred on the 25th day of August, 1832; that she subsequently married Adoniram Paige, who died in 1848; that by special act of the New Hampshire legislature approved January 4, 1849, she was permitted to take the name of Abagail S. Tilton, and in which name she now petitions Congress for relief.

It is in evidence, by letter of the Commissioner of Pensions, that by the act of Congress approved February 3, 1853, she was entitled to have her name placed upon the pension-rolls at any time prior to June 22, 1874, at which date the aforesaid law was repealed.

It is also shown that it was through no fault of the petitioner that she did not avail herself of the provisions thereof before its repeal. Living in a secluded country place, and knowing but little of the proper manner of making application for pension, she caused a petition to be drawn up setting forth in full the facts in her case, which was sent to the member of Congress from her district and by him was deposited in the petition box of the House June 8, 1868, as is shown by the journal. The petitioner was soon after informed by one she had reason to rely upon that she was not entitled to a pension, and therefore slept on her rights until informed of her error long after the repeal of the act of February 3, 1853.

It is also in evidence that since the death of her third husband, Adoniram Paige, she has lived with and been supported by Nathaniel D. Tilton, the son of her first husband, until about three years since, when he died, by which event she is now left childless and destitute; that she is now nearly ninety years of age, and in receipt of no means whatever to furnish food or clothing or medical attendance and nursing in her last years of life. In consideration of which, and in accordance with the spirit of the act approved March 11, 1878, granting pensions to widows of Revolutionary soldiers, the committee submit herewith a bill granting her a pension at the rate of $16 per month, believing that will meet her needs more fully than the provisions of the bill H. R. 3298, which provides for payment at the rate of $8 per month from 1854 to date of special act granting her a pension, March 3, 1879.

Your committee therefore report back the bill (H. R. 3298) with a substitute therefor, and recommend the adoption and passage thereof.

A similar bill for her relief passed the Senate and was favorably r ported to the House in the Forty-sixth Congress, but failed to be co sidered for want of time. This aged lady is now in a helpless conditic and dependent upon charity for support beyond the $8 per month sl is now receiving pursuant to the special act for her benefit passe March 3, 1879.

The unfortunate delays which deprived her of a pension during s many years that she was clearly entitled to it under the law have al attended her efforts to get the relief which Congress has always bee willing to bestow, and the bill introduced in the Senate this sessic provided that her increase from $8 to $16 per month should commen March 3, 1879, but it was amended before its passage by striking o the allowance of arrears, so that the increase should take effect onl upon the passage of the act.

Your committee find by an examination of the Senate bill that tl proviso—evidently referring to the arrears (which were stricken out c recommendation of the Senate Pension Committee), in the followin words: "*Provided*, That all payments heretofore made shall be fir deducted"—ought to be struck out also. Undoubtedly said proviso w retained through inadvertence in the Senate, and we recommend th passage of the bill after amending the same by striking out the provis

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1090.

EMILY H. DRURY.

APRIL 20, 1882.—Laid on the table and ordered to be printed.

Mr. WADSWORTH, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 2793.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 2793) granting a pension to Emily H. Drury, having had the same under consideration, would respectfully report:

That Emily H. Drury is the widow of Nicholas Drury, who was sergeant of Company E, Fiftieth New York Engineers.

That he enlisted August 20, 1861, and was discharged September 20, 1864, and died November 29, 1872, of bronchial pneumonia. That claimant applied for pension December 12, 1878. The records of the Adjutant-General's and Surgeon-General's Offices show no evidence of any disability. The rolls of the company show him present except when absent on recruiting service. The connection of the service with the disease of which he died is sought to be made wholly by proof by neighbors of robust health before enlistment, and sickness after discharge, which continued until death. The examining surgeon, H. W. Leonard, residing at the home of the soldier, Camden, Oneida County, New York, reports: "I do not think the case of the widow of Nicholas Drury, Fiftieth New York Engineers, is worthy of any consideration, as his comrades tell me they never knew of his being sick while in the service, and he certainly never was after discharge till his last sickness," eight years afterwards.

Upon the whole case the Commissioner of Pensions rejected the claim, October 15, 1879. Afterwards it was reopened and additional proofs filed, and the claim again rejected March 23, 1880. Your committee fail to find in the case sufficient reason for reversing this decision of the Commissioner of Pensions, and therefore report adversely upon the claim, and ask to be discharged from its further consideration.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1091.

MARY M. J. FRANK.

APRIL 20, 1882.—Laid on the table and ordered to be printed.

Mr. WADSWORTH, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1170.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1170) granting a pension to Mary M. J. Frank, would respectfully report:

That Mary M. J. Frank is the widow of Col. Paul Frank, of the Fifty-second Regiment, New York Volunteers.

In January, 1874, said Paul Frank was pensioned from the 15th May, 1873, at $15 per month, on account of disability from a contusion of the right side by a piece of a shell received at the battle of Chancellorsville, Va., in May, 1863. In July, 1874, this pension was increased to $30 per month on account of disability from rheumatism, upon evidence that such disability originated from exposure in the service.

Colonel Frank died on the 7th of February, 1875. Under the acts of January 25, 1879, and March 3, 1879, his widow, Mary M. J. Frank, was allowed arrears of pension at the rate of $15 per month from the 10th of November, 1864, the date at which her husband was mustered out of service, to the 14th of May, 1873, the date at which his pension commenced under the limitation in force during the time he was a pensioner. His widow, Mary M. J. Frank, claiming that the arrears should have been allowed at the rate of $30 per month instead of $15 for the whole time, took an appeal from the decision of the Commissioner of Pensions, refusing her claim, to the Secretary of the Interior, who, on the 19th April, 1880, rendered a decision on the appeal, approving of the action and decision of the Commissioner of Pensions.

Afterwards, and after the Commissioner of Pensions, who decided the application from which the appeal had been taken, had gone out of office and the present Commissioner of Pensions had taken his place, the claimant applied to have the decision of the former Commissioner and Secretary of the Interior reviewed.

This the present Commissioner granted, and upon a full review of the case, on the 14th September, 1881, decided that a careful examination of all the papers in the case suggested no change in the prior decisions.

The application is now made to change these decisions, and allow by bill to this claimant these claimed arrears of $15 per month from November 10, 1864, to May 14, 1873.

The papers in the case disclose, and the decision of the Commissioner of September 14, 1881, sets out ample grounds upon which to base such

decision, aside from the general opposition to allowing arrears not now ful provided for, and this case does not show any equitable claim deman ing a reversal of the decision of the Interior Department in this case.

The claimant, Mary M. J. Frank, is now drawing a pension of $30 p month by special act of Congress in her behalf, as widow of said C Paul Frank.

The committee report adversely upon this claim, and ask to be di charged from its further consideration.

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1092.

ELEANOR K. FILLIS.

APRIL 20, 1882.—Laid on the table and ordered to be printed.

Mr. PARKER, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1100.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1100) for the relief of Eleanor K. Fillis, submit the following report:

This bill places upon the pension roll the name of the applicant. A favorable report has been made in both the Forty-fifth and Forty-sixth Congresses. The latter is adopted by this committee, as follows:

It appears from the papers presented to your committee and those on file in the Pension Office in the case, that the petitioner is the widow of George S. Fillis, who enlisted April 14, 1872, as a private, Company B, Fifth Regiment New York Heavy Artillery; honorably discharged April 14, 1864, and then re-enlisted in the same company; was granted thirty days' re-enlistment furlough, and joined his company on or about June 10, 1864, and was detailed in the adjutant-general's office at Harper's Ferry, was taken sick, sent to the hospital, and died there 23d June, 1864.

The widow's application for pension was rejected July 3, 1866, upon the "report of the Surgeon-General that the soldier died June 23, 1864, of delirium tremens."

Your committee find the certificate from Surgeon-General's Office, dated June 14, 1866, which says, "is reported to this office by Surgeon George S. Ditt as having died at regimental hospital, June 23, 1864, with delirium tremens."

The Adjutant-General's report, June 2, 1866, says, "died at regimental hospital, Harper's Ferry, Va., June 22, 1864, of apoplexy."

The widow, in one of the statements filed, says that she received a letter from her husband on the 19th of June, "stating that he was ordered next day to join his regiment to march to Martinsburg." Also, that the thirty days her husband was at home on leave he drank nothing but beer, and only a small portion of that. He was in perfect health when he left his family."

The widow states in the same communication that she believes her husband died from bad treatment while in the hospital, and submits the affidavit of an inmate of the hospital at the time her husband was there sick. It is as follows:

"I, Henry Charles Labrey, the undersigned, hereby certify and state that during the month of June, 1864, I was sergeant of Company B, Fifth New York Artillery Volunteers, then stationed at Harper's Ferry, Va.; that I became a patient in the regimental hospital situated at Bolivar, Harper's Ferry, Va.; that at the time of residence in the said hospital, George F. Fillis, a private of my company, was also admitted, and was very sick; on the third or fourth night after his admission he was laboring under great apparent mental excitement; that several of the attendants of the hospital, to the number of three or four, used considerable physical force towards and on the said George F. Fillis; that I saw as many as three persons sitting upon his person at one time. A piece of wood was cut by one of them to answer the purpose of a gag, which was introduced into his mouth and used for such purpose; that he was butted and apparently strangled, and it was during such treatment that the said George F. Fillis died.

"I further state that I do not know the names of the parties who committed such acts, and from my observation from the bed to which I was confined I am bound to believe

that if such treatment did not actually cause, it certainly did materially hasten and accelerate his death."

There is also filed a statement of seven friends of the deceased soldier, who saw him while at home on the thirty days' furlough, who say:

"We have met him at his home on many occasions during his thirty days' furlough, and in no instance have we ever seen him use nor under the influence of intoxicating liquors."

Joseph S. Cook (formerly of Saint Paul, Minn.) writes from Home Insurance Company, New York, March 10, 1870, corroborating statement about his habits while home on the furlough.

A favorable report to Congress from this committee seems to have been made at the second session of the Forty-fifth Congress.

Upon the evidence set forth in this case the committee is of opinion that there is so much doubt as to the real cause of the soldier's death that they are not justified in approving the bill. They therefore report adversely thereon, and recommend that it lie upon the table.

C

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1093.

GEORGE QUARRELL.

APRIL 20, 1882.—Laid on the table and ordered to be printed.

Mr. PARKER, from the Committee on Invalid Pensions, submitted to the following

REPORT:

[To accompany bill H. R. 3027.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 3027) granting a pension to George Quarrell, having had the same under consideration, beg leave to submit the following report:

In this case the evidence is not very voluminous, but the facts in the case appear in the following report, made by the Forty-sixth Congress, which this committee adopt, as follows:

From an examination of the papers on file at the Pension Office in the original claim to pension of this petitioner we find that he twice enlisted in the Army of the United States, his first enlistment being in Company H, Fourth New York Volunteers, in which he was mustered May 22, 1861, and discharged August 8, 1861. His surgeon's certificate of disability, "varicose veins." He again enlisted November 29, 1861, in Company C, Twelfth New York Volunteers, and was in that regiment and the Veteran Reserve Corps until November 14, 1865, when he was honorably discharged. He filed his application for pension May 3, 1869, alleging disability from injury of left leg, received while he was doing guard duty at the arsenal in New York City, shortly after his muster. The circumstances of the injury, as stated, are, that while standing guard over some of the men of his command, some of them made an attempt to gain their liberty, and in this act hurled the petitioner down a flight of stairs, injuring his leg and tramping upon it. He further states that he was entirely sound at enlistment; had never had varicose veins; that the injury received, as narrated, resulted in varicose veins, for which the surgeon at the hospital, Newport News, Va., discharged him; that being anxious to serve his country, and believing himself well enough, he again enlisted in the Twelfth New York; that frequently when on the march his leg gave out, and on account of not being able to keep up he fell behind, and was twice taken up as a deserter; that he was acquitted on his trial, his surgeon testifying that his disability prevented his marching; that he was then transferred to the Veteran Reserve Corps, where he served until honorably mustered out. He fails to find the surgeon to give his evidence, as also any commissioned officer of his first regiment. The Pension Office rejected the claim on the ground of insufficiency of evidence. Comrades who were eye-witnesses of the assault upon the petitioner testify as to the injury and its origin. Neighbors and employers testify as to the petitioner's disability from his discharge to the time he was furnishing evidence to the Pension Office. The Adjutant-General's records corroborate the statement of the soldier as to his service, but the rolls fail to show any disability. The applicant makes affidavit that he can furnish no medical testimony as to soundness at enlistment, and finally asks that the case be adjudicated on the evidence filed as being all that he can furnish. The office, upon this request, proceeded to reject as before stated.

This committee is of opinion that there is not sufficient evidence in the case to justify the recommendation of a favorable report, although the applicant is quite needy, and presents a case appealing strongly to our sympathies. We are compelled to recommend that an adverse report be made upon the bill, and recommend that it do not pass.

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1094.

THOMAS SHANNON.

APRIL 20, 1882.—Laid on the table and ordered to be printed.

Mr. PARKER, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1099.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1099) granting a pension to Thomas Shannon, having had the same under consideration, beg leave to make the following report:

The bill, placing upon the pension-roll the name of Thomas Shannon, was favorably reported on in the second session of the Forty-sixth Congress, but too late to be acted upon. The facts of the case were fairly set forth in the report then made, and are as follows:

An examination of the papers on file in the Pension Office in the case shows that e petitioner was a private in Company B, Tenth United States Infantry, and that was discharged upon certificate of disability September 12, 1872. The said certifi- te recites:

'Loss of right hand and lower part of fore-arm on the 4th of July, 1872; while 'on s' he had his hand lacerated by the explosion of a can of gunpowder in the hands a citizen. It appears that he saw the explosion about to take place, and was in act of knocking the can from the hands of the man who held it, when it exploded. e injury he then received necessitated amputation. He is, in my opinion, a case for sion. Disability full."

The petitioner filed application for pension October 30, 1872, alleging "disability m wound in right fore-arm, received while firing a salute at Rio Grande City, Tex., ly 4, 1872, in attempting to save the life of a citizen who held a can of powder in hands that was about to explode, and knocking the same from his hands."

The Pension Office rejected the claim February 17, 1873, on the grounds, "Reject; t in line of duty."

The petitioner, who has filed several affidavits, all of the same general character, ms thoroughly imbued with the idea that he should receive a pension. He sets th prominently the fact that he is entirely disabled from earning a living.

The Adjutant-General reports: "Discharged September 12, 1872;" roll for July and gust, 1872, covering date of alleged disability, says: "A private, present sick in spital. Nature of disability not stated."

Testimony of First Lieutenant Charles L. Davis, United States Infantry (certificate disability):

"The injury received by Private Shannon, on the 4th of July last, was caused by his deavors to knock from the hands of a citizen in Rio Grande City a can of powder at was about to explode. Private Shannon was 'on pass' at the time."

Your committee are of the opinion that the facts set forth do not nstitute a case upon which a pension should be granted. They there- re report adversely, and recommend that the bill be rejected.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1095.

CALVIN GUNN.

APRIL 20, 1882.—Reported adveresly, laid on the table, and ordered to be printed.

Mr. FULKERSON, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 2186.]

The Committee on Pensions, to whom was referred the bill (H. R. 2186) granting a pension to Calvin Gunn, have considered the same, and report:

That the petitioner has produced before the committee no proof that he was disabled in the line of duty, as a soldier in the United States Army, or as a member of California State militia. The committee, therefore, report the said bill back to the House, with the recommendation that it do not pass.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1096.

MARY C. J. BUDLONG.

APRIL 20, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. FULKERSON, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1164.]

The Committee on Pensions, to whom was referred the bill (H. R. 1164) for the relief of Mary C. J. Budlong, would respectfully report:

That Mary C. J. Budlong is the widow of John Budlong, who was a private in Captain Catlin's company of New York militia in the war of 1812 and 1814; that there is no proof of his term of service, and it is only generally shown to have been at least fourteen days. John Budlong died April 27, 1854. In 1864 his widow, Mary C. J. Budlong, applied for a pension. As the law then stood this could only be granted on proof that he died by reason of service. This was sought to be done by the claim that he was troubled with chronic diarrhea, and had a hernia, caused by gun-shot wound. No connection of these with the service in the war was shown, except statements of deceased, and, the Commissioner of Pensions not being satisfied with the proofs, the claim was rejected. John Budlong does not appear upon the company rolls of Captain Catlin's company as a member, and the only proof of service is that of two claimed comrades—Caleb Green and John Green—both of whom appear by the records as deserters after only thirteen days' service. Upon this proof the claimant obtained a land warrant.

March 9, 1878, an act was passed, entitled "An act amending the laws granting pensions to the soldiers and sailors of the war of 1812, and their widows, and for other purposes."

Prior to the passage of this act a bill had been introduced in the Forty-fifth Congress for a pension to this claimant, Mary C. J. Budlong, asking arrears from the date of the death of her husband. After the passage of the act of March 9, 1878, the Senate committee reported adversely upon such bill, referring her to her rights under such act. She thereupon applied under that act, which provided—

> That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-rolls the names of the surviving officers and enlisted and drafted men, without regard to color, including militia and volunteers of the military and naval service of the United States, who served for fourteen days in the war with Great Britain of 1812, or who were in any engagement, and were honorably discharged, and the surviving widows of such officers and enlisted and drafted men.
>
> When any person has been granted a land warrant under any act of Congress for and on account of service in the war of 1812 such grant shall be *prima facie* evidence of his service and honorable discharge, so as to entitle him, if living, or his widow, if he be dead, to a pension under this act.

As the proof of service upon which the land warrant was issued

showed the deserters, making same to have been themselves in th service but thirteen days, although they swore John Budlong was i the service fourteen days, the Commissioner rejected the claim for pe: sion under the act of 1878 on the 3d September, 1879, on the ground a therein stated:

> The testimony of Caleb Green and John Green in bounty land claim cannot be a cepted, as both men only served from 7th to 20th October, when they deserted, co sequently only served thirteen days, not a pensionable service. Having deserted o the 20th of October, they cannot testify as to service on that day.

This decision was afterward reopened, and upon another examin tion it was held that both days might be taken, making the fourte days required by the act of 1878, and on the 27th February, 1880, pension was granted claimant of $8 per month with arrears, and co mencing from March 9, 1878, the date of the said act under which was allowed.

Claimant now asks, by her petition, to have arrears from the date the discharge of her husband, in 1812 or 1814, to the date of the co mencement of her present pension—March 9, 1878. This is a muc larger demand of arrears than was asked of the Forty-fifth Congres and one that has never been granted in any known case. The claimar has received pension from the earliest point of time she could by ar construction of law claim same, and as long as all other like cases.

Your committee see no reason for making this an exceptional cas establishing a bad precedent, and they therefore report adversely up said bill, and ask that the same do not pass.

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1097.

JAMES CALER.

APRIL 20, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. RAY, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 2845.]

The Committee on Claims, to whom was referred the bill (H. R. 2845) for the relief of James Caler, submit the following report:

This claim was presented to the House of Representatives in the Forty-fifth and Forty-sixth Congresses, but was not acted upon. In the Forty-fifth Congress the claim was referred to the Committee on Commerce, and a favorable report was made thereon by Mr. Overton, of said committee (Report No. 81, Forty-fifth Congress, third session), to the House of Representatives. Mr. Overton's report appears to be carefully drawn, well considered, and sustained by the evidence before your committee. We therefore adopt the same and report back the bill for the claimant's relief, with the recommendation that it be passed.

[H. report No. 81, Forty-fifth Congress, third session.]

Mr. OVERTON, from the Committee on Commerce, submitted the following report to accompany bill H. R. 6255:

The Committee on Commerce, to whom was referred the bill for the relief of James Caler, of Stamford, Conn., having had the same under consideration, would respectfully report:

That on the 25th day of June, 1873, the petitioner entered into a contract with the United States of America for dredging and excavating the bar at Rutherford Park, in the Passaic River, New Jersey. For this work he was to receive, when it was completed, the sum of $14,500. The work has been completed according to the requirements of the contract. In the specifications, which were made part of the contract, the material was represented as consisting "of loose stone, bowlders, sand, and gravel." After quite a large part of the work had been done, it was discovered that the remaining portion of the material to be removed consisted in part of a hard blue clay and hard-pan, the removal of which was attended with an expense much greater than would have attended the removal of such material as the contract specified. For this extra expense Mr. Caler claims compensation.

Lieut. Col. John Newton, who was engineer in charge of the work, and who represented the United States in making said contract, and executed it for them, admits that there was a mistake made in the description in the contract of the character of the material to be removed, and that the claimant is entitled to some relief; and your committee are of that opinion. The question as to the amount that should be allowed him in full compensation is one of some difficulty. In a communication addressed to your committee, dated May 1, 1878, he says: "In arriving at a conclusion as to the extent of Mr. Caler's claim against the government, there must be some uncertainty in spite of all the care that can be taken. As to the fact that he has some claim there can be no dispute, because the materials—sand, gravel, broken stone, and bowlders—

which he contracted to remove were underlaid in some parts by a hard clay very difficult to dredge, and which was not specified in the contract."

Colonel Newton has made, at the request of your committee, two computations of the amount to be paid to the claimant in full satisfaction. The first is upon a basis of a payment for the use of his dredge and scows used, and of the wages of the men required to handle them, with the other expenses incident to their use. Upon this basis he finds the amount to be paid to the claimant to be $11,769. Subsequently Colonel Newton submitted another estimate based upon payment to the claimant for the ordinary wear and repair of machinery, wages of the men employed, with interest upon the value of the dredge, scows, and other material used in the prosecution of the work, to which he adds $1,000 for the services of the claimant. Upon this basis he makes the amount to be paid, $7,245. This computation leaves out all compensation for the use of property of the claimant in the prosecution of this work for a period of sixteen months, which is valued at the sum of $16,500, and for $18,471 advanced and paid out by him in the prosecution of the work (in all, the sum of $34,971), excepting 6 per cent. interest on his said disbursements, and on the sum at which the property used was valued. This, you committee think, is not just, because it is apparent that 6 per cent. interest upon the value of such property is not sufficient compensation for its use. The property is used up and destroyed by its use; and this compensation makes no allowance for the rapid depreciation and final loss of the property. It is well understood that vessels of this kind become of little or no value for use after a period of twelve to fifteen years; and if the owner receives but 6 per cent. interest on his investment for fifteen years, and then suffers a loss of the sum invested, his investment cannot be considered a profitable one. It is also manifest that no man can afford to invest $16,500 in dredges and scows, and run them upon a work of this character for sixteen months at an expense to himself of $18,471, and receive as compensation only the sum of $1,000 for his services, with interest at 6 per cent. on his capital invested and money advanced, with payment of his cash advancements. Your committee are of opinion that there should be added to this last estimate of Colonel Newton the sum of $1,200 as a further compensation for the claimant's services, use of his property, and interest upon his disbursements, making in all the sum of $8,445, to be paid to him in full satisfaction of his claim, and they therefore report the accompanying bill, and recommend that it do pass.

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47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1098.

ERNEST F. UNLAND.

APRIL 20, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. TAYLOR, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 3243.]

The Committee on Claims, to whom was referred the bill (H. R. 3243) for the relief of Ernest F. Unland, having had the same under consideration, report:

That on the 24th day of July, 1875, the distillery premises of the City Distillery Company, Pekin, Ill., owned by Daniel S. Risinger, George T. Risinger, and Herman E. Kickler were seized by the collector of the eighth Illinois district for a violation of the revenue laws (section 3281 Revised Statutes), and on the following 4th day of August were libeled in the United States courts. On the 9th day of August, 1875, the property was released to said company under bond.

The property, after being bonded on the 19th day of August, 1875, was conveyed to George T. Risinger, who, on the same day, conveyed it to the Copper Distillery Company, and the distillery was operated by that company until the 13th day of January, when it and all of the destructible machinery and personal property belonging to it were destroyed by fire. Afterward, on the 5th of February, 1877, the Copper Distillery Company reconveyed the real estate to George T. Risinger, who rebuilt and operated the distillery till May, 1879.

In the mean time proceedings had been instituted against said two Risingers and Kickler, growing out of the facts for which said seizure was made, and such libel filed for criminal violation of the laws connected with the revenue, to which said defendants plead guilty and were fined in considerable sums, for which and for costs judgments were rendered against them, and a decree was made against said property at the January term for 1879, of said court, for $4,376.50, the amount of said fines and costs.

Efforts were being made to collect the fines and costs by subjecting the property to such payment; which efforts were resisted on the ground that the bond was taken in place of the property and released it from the lien before existing, thus raising a very serious question, as the Secretary of the Treasury thought. The property had become of little value, and at this point said Unland, for said firm of Smith & Hippen, who had no other interest in the matter than junior-judgment creditors, if the claim of the United States, on the 18th day of October, 1880, under section 3469 of the Revised Statutes, compromised all said claims with the Treasury by paying him $796.71. However, before that time, to wit, on the 24th day of August, 1880, the President

granted a full pardon (expressly releasing said judgment) to said I iel S. Risinger, George T. Risinger, and Herman E. Kickler, wl fact was unknown to said Unland and to the Secretary of the Treas at the time said compromise was made and said money paid. The ject of the bill under consideration is to authorize the Secretary of Treasury to refund to Unland the money so paid. As the money paid under a mutual mistake of fact, upon a claim which had cease exist, your committee think the bill should pass, and do so recomm

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47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1099.

CERTAIN CLAIMS NOW PENDING BEFORE THE ACCOUNTING OFFICERS OF THE TREASURY.

APRIL 20, 1882.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. CHAPMAN, from the Committee on War Claims, submitted the following

REPORT:

[To accompany bill H. R. 5899.]

The Committee on War Claims, to whom was referred the bill (H. R. 3362) to authorize the accounting officers of the Treasury to consider and pass upon certain claims now pending before them, having considered the same, submit the following report:

That the object of the bill is to affirm the jurisdiction of the accounting officers of the Treasury over certain claims that remain pending before them belonging to a class of claims, upon great numbers of which they have exercised jurisdiction for many years without question from any quarter, and with the express sanction of Congress at every session for the last eight years.

The reasoning upon which the jurisdiction has been exercised, and a partial list of the cases on which they have acted in the exercise of it, and reported to Congress, and on which Congress has by making specific appropriations sanctioned their exercise of such jurisdiction, are given in the letters of the accounting officers hereto appended and made part of this report.

No reason is given by either of these accounting officers, or occurs to the committee, for doubting their jurisdiction, or for their suspending action on the comparatively few cases which remain undisposed of, after having acted on so many similar cases during many years, and when their action has been sustained by Congress in every instance by specific appropriation, to carry into effect their decisions.

It only appears by the report of the Third Auditor that the question of jurisdiction has been reconsidered on the suggestion of Mr. French, the Assistant Secretary of the Treasury, without regard to precedents. As the one hundred and ninety-first section of the Revised Statutes provides that the decisions of the accounting officers of the Treasury are not subject to revision by the Secretary, the suggestion of the Assistant Secretary does not appear to the committee to be sufficient reason for disregarding the precedents, consisting of the recognized rulings of the department through a long series of years that have been submitted to and sanctioned by Congress in every instance.

The reasoning of the accounting officers, independently of this long practice by them ratified by Congress, may or may not be correct.

If the question was a new one it might be proper for the committee

to discuss it here; but when a law has received a settled construction during a series of years, both by the legislative and executive departments, and the business arising under it has been nearly all disposed of, it would not be proper to disregard the settled practice under the law in disposing of the remnant of the business even if that construction was wrong.

The whole amount of these claims now pending probably does not exceed $100,000, whilst more than a million of the same have been adjudicated by the accounting officers, and their adjudication laid before and sanctioned by Congress.

Moreover, the Comptroller, whilst he doubts his jurisdiction in these claims, states that there is in principle no difference in equity between them and those more clearly in his opinion within the law.

It is thus conceded that if the claims are proved they ought to be paid.

Now, is there any reason why the accounting officers who have been found faithful in adjudicating the kindred claims should not be permitted to pass on the proof offered in support of these?

No advantage can accrue to the government from withholding this jurisdiction and compelling the claimants to seek another tribunal. And it is grossly unjust to do so at this stage of the business.

By the long practice of the accounting officers, sanctioned by Congress, the government has invited these claimants to present their claims to this tribunal and to prepare proof for it. And it would therefore certainly be wrong to dismiss these claims at this late day upon suggestion that the accounting officers have no jurisdiction over them.

For these reasons the committee recommend the passage of the bill.

Views of the accounting officers of the Treasury respecting claims referred to in Senate b 615, Forty-seventh Congress, first session.

REPORT OF THE THIRD AUDITOR.

TREASURY DEPARTMENT,
THIRD AUDITOR'S OFFICE,
Washington, D. C., October 19, 1881.

This is one of a number of pending claims in which the chief question involved is the authority of the accounting officers to adjudicate claims for occupation of real estate for barracks, camps, hospitals, fortifications, and kindred purposes, by the United States forces, in districts not proclaimed in rebellion, and where no express contract is found to support the claim.

For many years the accounting officers have held that such powers existed, and in many cases have exercised it. I append hereto a list of cases marked A, comprising only a portion of those in which such action has been taken since the war.

I do not find that any doubt of the power has ever been entertained by the accounting officers.

Pursuant, however, to a suggestion from Hon. H. F. French, Assistant Secretary of the Treasury, I now proceed to consider the question independent of the precedents.

All demands or accounts by or against the United States (sec. 236 Rev. Stat.) are to be settled in the Treasury Department. It has long been settled that this provision conferred no authority in claims for "damages" for torts or for "unliquidated damages" for breach of contract; that the accounting officers could do no more than enforce the performance of contracts according to the terms thereof. But it is equally well settled that their jurisdiction is not limited to express contracts, but extends to implied ones.

The general rule has always been followed, that whenever they would have had jurisdiction had the contract been express, they have jurisdiction in respect to the implied contract.

There are cases, perhaps, in which the law refuses to recognize a contract unless in writing; but this does not affect the rule, for no tribunal can recognize an implied contract when made by law of no force. Johnson's case (4 Court Claims, p. 250) rec-

ognizes in the strongest terms the doctrine that the rights of the citizens, the duty imposed by the Constitution and the jurisdiction of a tribunal are precisely the same, whether the contract be express or implied; that when the government has entered upon the realty of a citizen, or his right of property being established, the government should be deemed to have entered as his tenant under an implied lease.

It would seem from the above that the power and duty of the accounting officers to entertain such claims arising in time of peace or in districts not subject to the laws of war could hardly be questioned. The laws of peace and the amendments to the Constitution for the security of life and property apply in time of peace and in time of war when actual state of war exists. (*Ex parte* Milligan, 4 Wallace, 127.)

During the rebellion the laws of war undoubtedly prevailed—

First. Generally in the eleven States proclaimed in rebellion, subject to some limitations, from the commencement to the close of the State war.

Second. In large portions of Missouri, Kentucky, Maryland, and West Virginia during a less period, including only the actual state of war.

Third. In the District of Columbia while under martial law.

Fourth. In a small portion of Ohio and Indiana for a few days during the actual existence of the Morgan raid.

Fifth. In a small portion of Pennsylvania during the actual existence of Lee's invasion and the battle of Gettysburg.

The citizens of the eleven seceded States for the period of war can only claim those rights of property accorded by the law of nations under the principles of the Constitution; elsewhere, where actual war existed, and during its legal continuance, the rights of persons and property, so far as they were interrupted by warlike operations, are, in considering the liability of the government, to be determined by the laws of war.

On the other hand, where actual war did not exist, the rights of persons and property are, in considering the liability of the government, to be determined by the laws of peace.

An examination of the legislation during the war and since would seem to confirm this view.

The proclamation that certain States were in armed insurrection necessarily suspended the right of the accounting officers to entertain such claims when originating in such States; for the existence of a state of virtual war therein warranted the executive power in treating it as an enemy's country, where the Army could, under the rules and customs of war, appropriate or occupy without compensation any property. But to leave no room for doubt, Congress, by act of February 21, 1867 (ch. 57, p. 397, Stat. at L., 14), expressly forbade the settlement of claims growing out of the occupation of real estate (and certain other classes), when originating during the war and in such States.

Was not this law a strongly-implied recognition of the existing jurisdiction of the accounting officers over such cases when arising in the North? Why build a fence to divide nothing from nothing? It is true that an implied legislative recognition of a power does not necessarily *create* the power. But where there is already ground for the opinion that the power did exist by virtue of prior legislation, an implied recognition by Congress of its existence would go far to show that the prior law had been correctly understood to grant the power. If it be granted that this power was in existence, as Congress, the United States court, and the accounting officers supposed, then did not Congress, by the act of 1867, signify the only limit it intended should rest thereon? And can any other limit be prescribed?

We must assume that Congress understood when devising that law that the accounting officers had, and were exercising, that jurisdiction in respect to occupation of real estate in the North and during the war, and it is fair to presume, also, that it was perfectly content that such jurisdiction should be exercised, otherwise it would in that law, or some other, have abolished or limited it.

For six successive years Congress has expressly recognized such claim as within the province of the accounting officers to adjust.

Every year since the passage of the act of June 20, 1874 (Ch. 382, p. 110, 1 V., 18 Stat. at Large), a report has been submitted by the Secretary of the Treasury to Congress of claims examined and allowed by the accounting officers, but for the payment of which the appropriations were no longer available, having been either exhausted or covered into the Treasury, and in such reports under the head of "barracks and quarters" were included many claims of the description above referred to. Except in the first two years, lists of the claims have accompanied such reports, and in each of the six years Congress has appropriated to pay such allowances. The several committees which prepared the appropriation bills were well aware that the reports included allowances for the occupation of real estate by the Army during the war and in the loyal States; but I am not aware that it was ever suggested in Congress that the accounting officers had transcended their jurisdiction in entertaining, allowing, and reporting such claims. Is there anything in the nature of the use of real estate for an

earthwork or fort which distinguishes it from the use of real estate for camps, barracks, hospitals, &c.

The broad principle laid down in Johnson's case would seem to negative such a proposition. The court lays down the rule that the occupation of the realty of a citizen for public purposes creates the relation of landlord and tenant under an implied lease. The deprivation to the citizen and the advantage to the public being the same, whether the property was used for a camp or a hospital or a fort, there would seem to be no difference in principle as between these different kinds of uses. It is doubtless true that there are certain uses of real property which could not be compensated for on the theory of an implied lease.

The march of an army through lands, occupation of lands for battle, fortifications thrown up in the immediate presence of a hostile force, &c., are samples of this class; they are cases of damages resulting from the operations of war.

The trespasses which the army must commit on real estate to resist the immediate operations of a hostile force, raise no claims which any other authority than Congress can entertain, nor has any nation ever recognized such occupation as constituting a tenancy under an implied lease.

It is necessarily very hard sometimes to say precisely where this line should be drawn, but in the case of the deliberate occupation of private property not dictated by any immediate pressure of hostile force, which requires that one particular spot rather than another must be the vantage ground from which to fight, and especially where that occupation be continued for a considerable period, regardless whether the enemy be near or far, there seems to be no ground upon which the government can refuse to recognize the implied contract upon which, says the Court of Claims, "rests the right and duty to pay rent, as the just compensation prescribed by the Constitution."

If some such rule be not followed, then there is no stopping place to the theory that everywhere, no matter how far from the theater of war, the government has the right in time of war to use or appropriate any property, real or personal, of its loyal citizens, without compensation.

For these reasons I am satisfied that the action of the office hitherto in relation to this class of cases should be adhered to.

E. W. KEIGHTLEY,
Third Auditor.

A.

List referred to in Third Auditor's decision in claim (No. 34978) of James H. Elgin

List referring to *some* of the settlements made by the accounting officers, after the passage of the act of February 21, 1867, for occupation of real estate for barracks, hospitals, camps, warehouses, stables, wharves, forts, &c., in the loyal States and during the rebellion, the occupation *not* being under lease or express contract.

This list extends only to part of 1874. All such allowances made after the passage of the act of June 20, 1874, were reported to Congress for appropriations, and complete lists of such settlements will be found in each of the annual reports to Congress

Number of claim.	Number of settlement.	Year of settlement.	
14946	5022	1867	Trustees Baptist Church.
14947	5453	1867	Daniel Corroll.
15307	5496	1867	Jacob Rupp.
15325	6652	1868	S. O. Baker.
15105	7205	1868	John Moss.
15137	7737	1868	University of Missouri.
17801	8909	1868	D. Hazelrigg.
17844	37	1869	S. D. McCurdy.
18120	285	1869	Estate of J. C. White
18290	426	1869	German Reformed Church.
18308	540	1869	Birdseye Trustee, Point Lookout cases.
18077	922	1869	Robert Wyman.
18134	1104	1869	B. S. Barnes.
18610	1260	1869	A. & E. Dodge.
18868	1121	1869	James A. Dawson.
18807	1280	1869	William Dodd.
19359	1581	1869	Trustees Columbian College.
18425	1699	1869	—— Coffin.
19428	1759	1869	W. C. Bayley.
18288	1922	1869	Kentuky Mechanical and Agricultural Association.
18457	1939	1869	J. Younst.

Number of claim.	Number of settlement.	Year of settlement.	
	2233	1869	Female Seminary of Hagerstown.
	2893	1869	Susan V. McNaunee.
	3071	1870	Milton Gordon.
	3087	1870	G. Spratt.
	3098	1870	D. Mahoney.
	3166	1870	———
	3558	1870	W. B. Todd.
	3701	1870	Jacob Korb.
	4002	1870	J. K. Woodard.
	4066	1870	Robert and George Gilmor.
	4268	1870	Sisters of the Visitation.
	5686	1871	Monahan and Hite.
	5731	1871	Phillips—Lynch.
	6040	1871	Estate of Thomas Corcoran.
	6042	1871	———
	6650	1871	Phillip.
	6892	1871	Ladomus.
	7173	1871	W. A. Hughes.
	7322	1871	Bank of Kentucky.
	7447	1871	W. W. Rapley.
	7448	1871	Galt.
	7461	1871	Corbin and others.
	7675	1871	——— Scott, deceased.
	8531	1872	Moreland.
	9219	1872	Birkett.
	9715	1872	Grant, trustee.
	9804	1872	Todd and one other.
	9823	1872	Clark, administrator.
	9847	1872	Weigand.
	9950	1872	Faulconer.
	9978	1872	Wadsworth.
	9984	1872	Wilson, executor.
	408	1872	Mitchell.
	997	1872	Harrisburg Theological Seminary.
	1248	1872	Hanley.
	1354	1873	Elliott and one other.
	1694	1873	Carrington and others.
	1708	1873	Turner.
	1808	1873	Dunker, administrator.
	2759	1873	Jordon.
	3187	1873	Howard, executor.
	5988	1874	Presbyterian Church, Paducah, Ky.
	6387	1874	Baptist Church, Richmond, Ky.
	6604	1874	Rittenhouse and one other.
	7445	1874	Trinity Church, Washington, D. C.
	7650	1874	Court House, Warren County.
	7731	1874	Christian Church.
	8472	1874	Homiller.
	8598	1874	Counselman.
	8707	1874	White, administrator.

TREASURY DEPARTMENT,
SECOND COMPTROLLER'S OFFICE,
Washington, D. C., December 22, 1881.

have the honor to acknowledge the receipt of your letter of the 18th instant, ı you ask what is "the *status* of claims for occupation by Union forces during of real estate of loyal citizens in States not in rebellion, now pending, and egislation is proper by Congress"; and respectfully reply as follows:

has been much conflict of opinion as to the power and authority of the ac- ; officers to audit claims of this kind, but during several years past it has ld that the Auditor and Comptroller are not authorized to approve a claim se or occupation of real estate in any case except where rent has become due erms of an express contract. There are now on file, undisposed of, a great aims for compensation for the forcible taking and occupation of lands, and ies thereto, caused by their being used as camping-grounds and battle-fields ɔurposes of fortification, that have not been approved because it is held that not within the general jurisdiction conferred upon the Auditor and Comp- y sections 273 and 277 of the Revised Statutes, nor within any of the statutes e conferred jurisdiction over special classes of cases.

ies on the point mentioned in your letter have recently been made by a large of persons, nearly all of whom have made like inquiry in regard to compen- r the forcible taking of what are commonly called "engineer stores," that is, ation for timber and other property taken during the war for the construc- ortifications. As this kind of property is not deemed to be quartermasters' ithin the meaning of section 300 A of the Revised Statutes, it is argued that

if the special authority given by that section, and by the succeeding section was necessary in order to authorize the auditing of accounts for quartermasters' stores and for subsistence, like special authority is necessary to authorize the accounting officers to audit claims for property taken without contract and used in the construction of fortifications; and upon the strength of this argument it is held that this class of claims is not within the jurisdiction conferred. While so holding, I am aware of the apparent inconsistency of making the question of pay depend upon the use to which the property is devoted, when either of two purposes may have been equally beneficial to the government. The same officer may have been acting as engineer and as quartermaster at the same time, and quantity of timber may have been seized by his orders, and used, in part, for purposes of fortification and in other part as quartermasters' stores. The part used for the purpose last mentioned can be lawfully audited and allowed in pursuance of the statute above referred to, while so much as was used solely for purposes of fortification does not fall within the purview of that statute, nor has it been provided for in any special statute conferring jurisdiction on the accounting officers.

I am of opinion that existing law does not authorize the accounting officers to audit claims for forcible seizure or occupation in either of the two classes above mentioned.

W. W. UPTON,
Comptroller.

HON. G. G. VEST,
United States Senator.

TREASURY DEPARTMENT,
THIRD AUDITOR'S OFFICE,
Washington, D. C., February 25, 1882.

SIR: I have the honor to return the communication addressed to the Secretary of the Treasury, on 17th instant, by Hon. A. G. Chapman, on behalf of the Committee on War Claims, House of Representatives, in which were inclosed, for the views of this department, bill H. R. 3362, relating to claims of loyal citizens in loyal States for the use and occupation of real estate, &c.

I have always held the opinion that the accounting officers are authorized, under existing laws, to consider and pass upon the class of claims mentioned in the bill.

For many years the accounting officers have held that such power existed, and in many cases have exercised it. For allowances so made Congress has repeatedly made appropriation, and payment has followed.

Certainly, when clearly established, a claim of this character presents as strong equities as any within the jurisdiction of the accounting officers. Their power and duty to consider and pass upon claims arising upon implied contracts growing out of the appropriation of personal property for the use of the Army in loyal States, has never been questioned, and I see no reason why the power and duty should not equally extend to claims growing out of the like appropriation of real estate.

The claimants should have a remedy; and, doubts having been raised as to the power of the accounting officers in the premises, the proposed legislation appears to me to be wise and just.

Very respectfully,

E. W. KEIGHTLEY,
Auditor.

HON. H. F. FRENCH,
Assistant Secretary of the Treasury.

TREASURY DEPARTMENT,
THIRD AUDITOR'S OFFICE,
Washington, D. C., March 30, 1882.

SIR: I have the honor to return the communication addressed you, on the 24th instant, by the chairman of the Committee on War Claims, House of Representatives. His communication inclosed House bill 3362, and addressed several inquiries relative to supposed constructions, or changes in construction, in respect to the bearing of the act of July 4, 1864, upon the settlement of claims for compensation for *occupation of real estate* and claims for the value of *engineer stores.*

It will be observed that the real estate proviso qualifying sections 300 A and 300 B, appendix to Revised Statutes, formed no part of the act of July 4, 1864; but was taken, in the revision, from the act of February 21, 1867, which described itself as an act to declare the sense of the act of July 4, 1864.

The act of July 4, 1864, so far as it *prohibited* the adjudication of any class of claims, was by express terms limited to the Court of Claims. (*Vide* first section.)

So far as it *provided for* the adjudication of any claims (*vide* second and third sections), it unmistakably described the classes, to wit: "Quartermaster's stores" and "commissary supplies" furnished or taken for the use of the army. In their very nature those terms must relate to movable personal property, and by no possibility could embrace *rent for real estate.*

Neither could those terms be reasonably construed to include engineer stores. The engineer department is utterly distinct from the quartermaster's or the commissary department. It has its separate appropriations, and from them supplies its own wants. If Congress had deemed proper to provide in that act for claims for the value of engineer stores, presumably it would have given to the Chief of Engineers the same kind of jurisdiction over claims of that class which it gave to the Quartermaster General over claims for "quartermaster's stores," and to the Commissary General over claims for "commissary supplies."

Neither the Quartermaster-General nor the accounting officers ever for a moment construed the second or third sections of the act of July 4, 1864, as either *authorizing* or *prohibiting* the settlement of claims for rent of real estate, or claims for the value of engineer stores. Their ruling has invariably been that those sections had simply no relation to such claims.

Where stores were taken in the loyal States for the use of the Engineer Department, I know of no law prohibiting the accounting officers from adjudicating the claims arising on such implied contracts; nor have the accounting officers ever declined to adjudicate such cases.

But, where stores for the use of that department were taken in a State proclaimed to be in insurrection, adjudication by the accounting officers has been doubly prohibited—

1st. The act of February 21, 1867, prohibited the settlement of any claim growing out of the appropriation of, consumption of, destruction of, or damage to "personal property," when the claim originated during the war and in a State, or part of a State, proclaimed in insurrection.

2d. The act of March 3, 1871, gave jurisdiction to the Commissioners of Claims of claims of loyal citizens for stores or supplies taken or furnished for the use of the Army in States declared to be in insurrection; and this jurisdiction was made exclusive by a provision that claims within the act should not be entertained by any department of the government, if not presented to the commissioners, &c. The terms here used embraced stores or supplies for any branch of the Army, and therefore included engineer stores.

CLAIMS GROWING OUT OF THE OCCUPATION OF REAL ESTATE.

From the limitation in House bill 3362, and the tenor of the chairman's letter, I understand that his queries in respect to this class of claims relate to such only as originated in loyal States, and will limit my reply accordingly.

The grounds on which the accounting officers have exercised jurisdiction over such cases are briefly these: "All claims and demands whatever by the United States or against them, and all accounts whatever in which the United States are concerned, either as debtors or as creditors, shall be settled and adjusted in the Department of the Treasury." (Act of March 3, 1817, Rev. Stat. 236.)

It has been repeatedly declared by Attorneys-General and by the accounting officers, that this provision did not confer jurisdiction over claims for "unliquidated damages," but was confined to claims arising *ex contractu;* but it has never been held by any authority that such claims must necessarily arise upon express contracts, and the accounting officers have uniformly exercised jurisdiction in cases under *implied* contract.

"When the government has entered upon the realty of a citizen, on his right of property being established, the government should be deemed to have entered as his tenant under an implied lease, whereof the 'just compensation' secured by the Constitution to those whose property is taken for public use should be the rent." (Johnson *vs.* United States, 4 Co. Claims 250.)

The accounting officers have uniformly held that, where the United States have occupied the real estate of a citizen, in a loyal State, by reason of some military necessity for its use, without claim of title or right to confiscate, and under circumstances where an intention to make compensation for the use ought to be presumed, an implied contract to pay a fair rent grows up. This doctrine has been maintained in an unbroken line of decisions reaching back to the beginning of the late war.

The chairman asks: When did the change in ruling take place, excluding such cases from consideration?

I cannot say that there has been any such change. There certainly has been none

in this office. Nor has the Second Comptroller rendered any decision in any case, in which such jurisdiction is denied.

In a review of the powers and duties of this department the Assistant Secretary of the Treasury expressed doubts of the power of the accounting officers to entertain claims for rent of property where the possession had not been under express contract. In deference to his suggestion I deemed proper to reconsider the question very carefully. In a claim of James H. Elgin (No. 34978), I reviewed the subject, adhering to the doctrine above stated, and allowing rent for the occupation; and so certified the case to the Second Comptroller October 14, 1880. The Comptroller has not returned the case, and so far as I am aware, has not rendered any decision upon it.

I cannot undertake to state whether in the consideration of this claim any doubts of the jurisdiction have arisen in his mind. Having received from him no official information of any action by him I assume that he has the case under consideration.

From what I have stated above it will be perceived that as yet no cases of this character have been "refused consideration or rejected for want of jurisdiction."

The number of cases now pending, in which the question might arise, could not be ascertained definitely without a most laborious investigation, which would long delay my reply. It can safely be said that they cannot number more than a very few hundreds. But, if the chairman deems necessary to have exact statistics I will, upon such notice, cause the investigation to be commenced.

The chairman asks how many cases of this character were allowed, under the act of July 4, 1864, before the change in the construction of that act.

As above stated, the accounting officers never allowed a single rent claim upon any theory that the act of July 4, 1864, conferred any authority for such allowance.

It is [illegible] to be interpreted to ask how many rent claims have been allowed by the accounting officers where the possession of the real estate was not held under express contract. I can only say that they have been very numerous. No investigation, however laborious or long continued, could reach any result approximating to accuracy. For, bearing in mind that the accounting officers have never yet held that express contract was a necessary element to allowance, it will readily be understood that there are many cases in which the decisions do not indicate whether the accounting officers believed the contract to have been express or only implied. Often a claimant, with some view to strengthen his case, would allege a verbal contract—but, if the occupation were proved, and the rate demanded reasonable, there was no necessity for any specific finding by the accounting officers upon his allegation.

Very respectfully,

E. W. KEIGHTLEY,
Auditor.

Hon. CHARLES J. FOLGER,
Secretary of the Treasury.

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1100.

JOHN TORREY AND OTHERS.

APRIL 20, 1882.—Reported adversely, committed to the Committee of the Whole House, and ordered to be printed.

Mr. GEDDES, from the Committee on War Claims, submitted the following

REPORT:

[To accompany bill H. R. 2595.]

The Committee on War Claims, to whom was referred the bill (H. R. 2595) for the relief of John Torrey and others, respectfully report:

That said claim is for compensation for loss sustained by claimants in the destruction by the military forces of the United States of their mill-buildings, machinery, and mill-dam, situate on the Shenandoah River, in the county of Warren and State of Virginia. One hundred and eighteen thousand dollars is asked for in said bill.

The time and attending circumstances of the destruction of said property clearly appear from the evidence on file in the case.

The Adjutant-General of the United States, February 3, 1882, in referring to this claim, says:

Herewith are copies of Lieutenant-General Grant's instructions of October 3, 1864, addressed to Major-General Sheridan, commanding the Army of the Shenandoah Valley, for the destruction of certain property in that region.

Here is the order of General Grant:

CITY POINT, *October* 3, 1864.

Major-General SHERIDAN,
Harrisonburg, Va.:

Leave nothing for the subsistence of an army on any ground you abandon to the enemy.

The Adjutant-General further states the operations of the Federal forces, as disclosed by the record, as follows:

In his report of operations in the Shenandoah Valley, General Sheridan says: "I therefore, on the morning of the 6th of October, 1864, commenced moving back, stretching the cavalry across the valley from the Blue Ridge to the eastern slope of the Alleghanies, with directions to burn all forage and drive off all stock, &c., as they moved to the rear, fully coinciding in the views and instructions of the Lieutenant-General that the valley should be made a waste."

The Adjutant-General's statement contains the following:

General A. T. A. Torbert, in his report of operations of the cavalry corps of General Sheridan's army, reports the engagements with the enemy and the movements of his command, but does not refer to the destruction of any property belonging to the parties named in the bill. He states, however, that on the 8th of October, 1864 (the day when the mill is alleged to have been burned), the Second Regiment West Virginia Cavalry, Colonel Powell, moved from Milford Creek to Front Royal, holding Chester and Manassas Gap.

Joseph Anksom, in his affidavit, says that in the month of October, 1864, he was captain in the Second Regiment of West Virginia Cavalry,

John Torrey, Edward W. Weston, and Charles T. Weston, citizens of the United States, domiciled in Pennsylvania, relying upon the protection of the Government of the United States, in 1854 purchased a mill property in the Shenandoah Valley, near Front Royal, in Warren County, Virginia, and at large expense erected a new flouring-mill with the latest improved machinery in use in Northern mills, a dwelling-house, out-buildings, &c., and then leased the mill to Charles T. Weston, one of the owners, who was in possession of and operating the mill at the outbreak of the war and until February, 1862.

In February, 1862, the United States forces occupied that region and took possession of the mill. After this date Mr. Weston never operated the mill. Indeed, he says, "I do not know that the mill was started after that. I do not know that the wheels would turn at all." Mr. Weston, while seeking to have the United States military authorities take his stock of flour, grain, &c., or else give him permission to transport them where he could find a Northern market, was cut off from his home and family by the reoccupation of this region by Confederate troops, and returned to his old home in Pennsylvania and remained for some weeks, until he learned that the United States forces were again in occupation of his property, when he returned to his family in Virginia. He subsequently sent his family North, and in July, 1862, finding that the United States forces were being driven down the valley, he hurriedly left for the North, where he remained during the remaining period of the war.

Before leaving he wrote a line to a Mr. Richards, who had formerly owned the property, giving a list of people to whom he owed flour in payment for grain he had received, and desiring Mr. Richards, if possible, to grind the grain which remained in the mill and distribute the flour to the persons named. The greater portion of the flour and grain in the mill had already been appropriated by the United States forces, the officers of which had refused to permit Mr. Weston to remove it, and some portion was taken by Confederate forces. Mr. Weston testified, "I bought no wheat for cash after communication with Alexandria was cut off. I made no effort to extend my business after that. I simply operated it as the business was forced upon me." Mr. Richards testified that he ground *most* of the wheat that was in the mill after Mr. Weston left, and kept the flour until it was taken away by different parties. The Confederate army got 200 or 300 barrels of it for a hospital they had at Front Royal. Some of it was distributed to Mr. Weston's customers according to the list which he had given.

It does not appear that this mill was ever operated any further than is above stated. If it was so operated it was clearly without any authority from the owners. Mr. John Torrey and Mr. Edward W. Weston never had any control of the operation of the mill except as landlords to lease to Charles T. Weston.

The mill, the property of these Northern men, loyal citizens of the United States, remained unharmed by Federal or Confederate troops,

and, so far as appears, idle through all the conflict which waged in the Shenandoah Valley, sometimes in the possession of one and sometimes of the other of the contending forces until October, 1864.

It is by no means strange, in the press of labor thrown upon this committee, with the voluminous evidence in this case, and with the statement from the Adjutant-General of facts and orders necessarily brief and detached from connecting facts, which should serve to throw light upon them, that the majority of the committee should have fallen into error as to the situation and circumstances attending the destruction of claimant's property. It becomes necessary, therefore, to review somewhat more at length the history of operations in the Shenandoah Valley just prior to the destruction of this mill.

The policy of destruction in the Shenandoah Valley commenced as early as August 5, 1864. On the 16th of August General Sheridan issued the following order:

HEADQUARTERS MIDDLE MILITARY DIVISION,
Cedar Creek, Virginia, August 16, 1864.

GENERAL: In compliance with instructions of the Lieutenant-General commanding you will make the necessary arrangements and give the necessary orders *for the destruction of the wheat and hay south of a line from Millwood to Winchester and Petticoat Gap.* You will seize all mules, horses, and cattle that may be useful to our Army. *Loyal citizens can bring in their claims against the government for this necessary destruction.* No houses will be burned, and officers in charge of this delicate but necessary duty must inform the people that the object is to make this valley untenable for the raiding parties of the rebel army.

Very respectfully,

P. H. SHERIDAN,
Major-General Commanding.

Brig. Gen. A. T. A. TORBETT,
Chief of Cavalry, Middle Military Division.

While General Sheridan speaks of the destruction ordered as necessary, it was not a necessity growing out of then impending danger. It was not done in the face of the enemy, or as a matter of defense against either a pending or presently threatened attack of the enemy. It was necessary in the sense only that it had been considered *expedient* as a matter of *military policy*, and so General Sheridan treated it, recognizing the obligation of the government to compensate loyal citizens for their property destroyed.

It was in pursuance of General Grant's order to General Hunter, August 5, 1864, which was turned over to General Sheridan, in which General Grant says:

In *pushing up* the Shenandoah Valley, as it is expected you will have to go first last, *it is desirable* that nothing should be left to invite the enemy to return. Take provisions, forage, and stock wanted for the use of your command. Such as cannot consumed destroy, &c.

The destruction was necessary only in the sense that it was *desirable*.

On the 19th of September, General Sheridan attacked the forces of the enemy under General Early at Opequon Creek and defeated them, pursuing them on the 20th as far as Fisher's Hill south of Strasburg. On the 21st he again defeated them at Fisher's Hill, and says:

I feel certain that its rout [that of the enemy's forces] from Fisher's Hill was such that there was scarcely a company organization held together.

Still moving up the valley on the 24th, General Sheridan reached Mount Jackson on the north bank of the north fork of the Shenandoah. The enemy had taken a position on the opposite side of the river, but had that morning commenced his retreat, still holding, however, a strong

line of troops in rifle-pits on the bluff. He was soon dislodged and was rapidly pursued on that day as far as New Market, and continued through that night and the next day to retreat as far as Brown's Gap in the Blue Ridge, and the Sixth and Nineteenth corps of General Sheridan's command reached Harrisonburg. General Sheridan's forces were then advanced to Port Republic, Staunton, and Waynesborough, burning forage, *mills*, and such other property as might be serviceable to the enemy.

On the 1st of October, General Merritt reoccupied Port Republic, and the Sixth and Nineteenth corps were moved back to Harrisonburg.

At this time and under these circumstances, at the very beginning of October, a force of United States cavalry, under command of General Torbett, *passing up the valley*, disabled the claimant's mill by destroying a portion of the machinery so that it could not be operated without certain new machinery, which some of the witnesses think could not have been obtained in the Southern States.

It would hardly be suggested that this act was performed under circumstances of imminent peril, or that it was a military necessity, in any other sense than that any act which a military officer considers *expedient*, as tending to advance the interests of his government, may be a military necessity.

While in this position at Harrisonburg, General Sheridan says, in his report:

> The question that now presented itself was whether or not I should follow the enemy to Brown's Gap, where he still held fast, drive him out, and advance on Charlottesville and Gordonsville. This movement on Gordonsville I was opposed to for many reasons, the most important of which was that it would necessitate the opening of the Orange and Alexandria Railroad from Alexandria, and to protect this road against the numerous guerrilla bands would have required a corps of infantry; besides, I would have been obliged to leave a small force in the valley to give security to the line of the Potomac. This would probably occupy the whole of Crook's command, leaving me but a small number of fighting men. Then there was the additional reason of the uncertainty as to whether the army in front of Petersburg could hold the entire force of General Lee there, and in case it could not, a sufficient number might be detached and move rapidly by rail and overwhelm me, quickly returning. I was also confident that my transportation could not supply me further than Harrisonburg, and *therefore adrised that the valley campaign should terminate at Harrisonshurg, and that I return, carrying out my original instructions for the destruction of forage, grain, &c., give up the majority of the army I commanded*, and order it to the Petersburg line, a line which I believed, if a successful movement could be made on, would involve the capture of the army of Northern Virginia.
>
> I, therefore, on the morning of the 6th of October, commenced moving back, stretching the cavalry across the valley from the Blue Ridge to the eastern slope of the Alleghanies, with directions to burn all forage, drive off all stock, &c., as they moved to the rear, freely coinciding in the views of the Lieutenant-General that the valley should be made a barren waste. The most positive orders were given, however, not to burn dwellings.

Thus deliberately, not under compulsion, but as a matter of wise policy, after careful consideration of the reasons for and against, did General Sheridan determine to abandon the Shenandoah Valley. For two weeks nearly he had maintained his headquarters at Harrisonburg, undisturbed by the enemy.

So far from being driven back at 9 p. m. on the 7th of October, General Sheridan reported from Woodstock:

> I have not been followed by the enemy to this point, with the exception of a small force of rebel cavalry that showed themselves some distance behind my rear-guard to-day.

In this withdrawal from the valley on the 8th of October, Colonel Powell's forces burned the mill and buildings belonging to the claimants.

From this recapitulation of the events of the few weeks preceding the destruction of the property of claimants, it appears clearly that the major-

ity of the committee have misapprehended the situation and circumstances under which the destruction of the property took place. It was not because "the United States forces could not hold possession of the mill and surrounding country." "The Confederate forces were" *not* "approaching in such force as to compel the Federal forces to abandon that locality." There was no "imminent and real danger threatening" General Sheridan's forces. "The Shenandoah Valley" was not of such "vital importance to the contending armies" but that the United States forces were deliberately abandoning it. Nor could "the power and capacity of the enemy to endanger the *retreating* army" have been materially increased by the possession and use of this mill, 1st, because there was no retreating army; 2d, because all the grain and forage in the valley had been destroyed, and no present use could have been made of the mill; and, 3d, because the mill had been already disabled temporarily, at least, if not permanently.

That in time the mill might have been restored, and that grain might be brought from other districts, or some might have been overlooked in the Shenandoah Valley, or that the mill might have been made useful for grinding crops yet to be raised, removes the case from that of wanton destruction of property.

Subsequently, during the same month, the mill-dam, from which power had been supplied for this mill, was destroyed by the United States forces for the purpose of enabling the troops more conveniently to cross the river.

The situation is so absolutely different from that supposed by the majority of the committee that the reasons present by them for denying the payment of this claim altogether fail, and their reasoning requires the compensation of these claimants by the government.

Laying aside for the present the consideration of Charles T. Weston's claim, John Torrey and Edward W. Weston were, during the whole period of the war, domiciled in a loyal State. They were earnest supporters of the government, not only paying in taxes their proportion of the expense of the war, but voluntarily contributing to raise and fit out troops for the service of the government. They lost, as the affidavits show, by the destruction of their property, each the sum of $15,253.95. The balance of their claim, as shown by their original petition and subsequent affidavits, was composed of interest, they appearing to be unaware that Congress had determined that no interest could be allowed on this class of claims. They heartily supported the government in its time of peril, and when they asked that protection for the property which, as loyal citizens, they thought themselves entitled to receive from the government, they find that the government to which they look for protection has deliberately destroyed their property, because by so doing it was thought the war could be more conveniently or economically carried on, or the enemy put to inconvenience in a region which they seemed to have considered favorable for raids towards the Northern States.

It is perhaps impossible to find precedents by which to measure the legal obligation of this government towards its loyal citizens domiciled in loyal States during our civil war.

That the government is absolved from all duty towards them cannot for a moment be accepted as law. It would be monstrous to hold that a citizen shall be called upon to bear all the burdens of citizenship and perform all his duties, and then when he requires protection for life or property, through no fault of his, that the government may claim absolute immunity from responsibility. The duties of governments and citi-

damages are caused by inevitable necessity. Such are, for instance, those by artillery in a city which is retaken from the enemy. These are accidents fortunes of chance for the proprietors upon whom they fall.

o these latter cases, Vattel thinks the State should give them ble consideration when the condition of affairs will permit; but

is no ground of action against the State for misfortunes of this nature, for hich it has caused, *not deliberately, but of necessity by accident*, in the exercise of ts.

e is the underlying principle which seems to control all this class ms.

Milton Best's residence in Kentucky was destroyed by shot and o drive out the sharpshooters of the enemy, and the destruction mpleted before the attack of the enemy was ended, the damage clearly come within the rule of inevitable necessity laid down by . Just as clearly does the case of the present claimant come the class of damages done *deliberately by way of precaution*, for Vattel says the State should render compensation.

e dwelling-house of Thomas B. W. Wallace was occupied by the 's sharpshooters, and during the night, before the battle had ated, was destroyed for the protection of lives of United States s, this presents no parallel to the present claim for destruction perty with no present danger pressing, but deliberately and by f precaution, and when the continued existence of the property not affect present results.

law governing these cases is well settled. It is true, as is said by J., in Brown *vs.* the United States (6 C. Cls. R., 171, Chap. 192, however mortifying the fact may be, that the Government of the l States holds itself of nearly all governments the least amenable law; that the legal redress given to a citizen of the United States t the United States is less than he can have against almost any ment in christendom.

roves nothing to say, as is said in Greene *vs.* United States (10 C. ., 466), that the United States is not *judicially* liable for any of the easures resorted to in the late rebellion except as such liability

also where a military officer charged with a particular duty may impress private property into the public service, or take it for public use, still that in such cases the danger must be immediate and impending, or the necessity urgent for the public service, such as will not admit of delay. That when the emergency which justifies the taking is shown to exist, the officer is not a trespasser, but that the government is unquestionably bound to make full compensation to the owner.

In the case of Mitchell *vs.* Harmony, although the taking of the goods by Colonel Mitchell was found by the court to have been unnecessary, and he was held liable as a trespasser, still, Congress, recognizing that he acted in good faith for what he believed to be the interest of the government, assumed his defense in the Supreme Court, and also the payment of the judgment against him.

These cases must be considered in connection with the facts under which they arose, and must not be pressed to the extent of holding that in every case of the taking, appropriation, or destruction of property by the military officers, where the emergency justifies the officer, the government is liable. This would embrace the damages necessarily occasioned in the shelling of a city, or in the very act of battle. They must be limited in their application to such acts as are deliberately performed, and they are in entire harmony with the proposition already quoted from Vattel.

In Wiggins *vs.* United States (1 C. Cls. R., 182), Gray, Ch. J., in overruling the demurrer of the government, says:

It depends on the time and circumstances, and the necessity for the acts, whether the government, the officer, or either is liable.

This was a case where powder belonging to the plaintiff was destroyed after the bombardment of Greytown, to prevent it falling into the hands of the enemy, and in the subsequent hearing of the case before the Court of Claims (3 C. Cls. R., 412), Casey, Ch. J., says (p. 422):

We do not see how this case can be distinguished in principle from that of Grant *vs.* United States (1 C. Cls. R., 41). There the property of a citizen in one of the Territories of the United States was destroyed to prevent it falling into the hands of the insurrectionary forces. Judge Wilmot reviews at length the grounds of the claim, and the authorities bearing upon the subject, *and shows most clearly and conclusively that whether the property be taken and appropriated by right of eminent domain, or destroyed to prevent other or greater injury to the public, the party is entitled to compensation.* That this results as well from the principles of natural justice and equity as from the Constitutional injunction to make compensation for private possessions devoted to public ends. We are entirely satisfied with the grounds there assumed so far as they are applicable to this case, and can add nothing to the cogency or conclusiveness of the reasoning.

In Perrin *vs.* United States (4 C. Cls. R., 543), which was a claim by a French subject, temporarily domiciled at Greytown, *for property destroyed in the bombardment*, the court distinctly recognize Grant *vs.* United States and Wiggins *vs.* United States as law, and distinguish Perrin's case in the following language:

The case, we think, bears no resemblance to that of Grant *vs.* United States (1 Cls. R., 41), or Wiggins *vs.* United States (3 *id.*, p. 197). *In both cases* the claim was for property taken by the United States or destroyed to prevent it from falling into the hands of the public enemy. It was not destroyed in hostile operations against the public enemy, but for the purpose of preventing the aid and succor it would have afforded him if permitted to fall into his hands.

The distinction here is clearly drawn and fully recognized. It is the same in substance as stated by Vattel. It has been otherwise stated, as follows:

Where there is deliberation and freedom of design, there is responsibility for the damage done. Where injuries are caused by accident, over which the will had no control, the case was one which could not be foreseen, and there no responsibility exists.

General Sheridan recognized this rule in his order of August 16, quoted above, when he said, "loyal citizens can bring their claims against the government for this necessary destruction." General Halleck recognized it in his instructions to the officers commanding in Tennessee in March, 1863, saying:

It may sometimes be necessary to take the property of loyal citizens either for our own use, or to prevent it falling into the hands of the enemy. They will be paid at the time the value of such property, or if that be impracticable they will be hereafter fully indemnified.

That the Congress of the United States has frequently recognized the same rule, is shown by the cases referred to in the report by Senator Howe in the matter of J. Milton Best. (Report No. 412, third session of Forty-third Congress.)

The only case brought to our notice which would seem to rule adversely is Respublica *vs.* Sparhawk (1 Dallas, 383), and a simple statement of the facts in that case will show that it cannot affect the application of the rule.

On the 13th of April, 1777, in view of the then present intention of the British army to occupy Philadelphia, the Pennsylvania board of war addressed a circular letter to a number of citizens of each ward of the city requesting them to obtain from every family a return of the provisions and number of persons that composed the families, respectively, in order that proper measures might be pursued for removing any unnecessary quantity of supplies to a place of security. At the same time it was mentioned that this proceeding was not intended to alter or divest the property in the articles removed, but on the contrary that *the same should be at all times liable to the order of the respective owners*, provided they were not exposed to be taken by the enemy. Of this property 227 barrels of flour, belonging to Sparhawk, and stored at Chestnut Hill, fell into the hands of the enemy. It was a case of imminent peril in the presence of an overpowering force of the enemy. The property was taken into custody for the twofold purpose of preserving it for the owner and of preserving it from the enemy. In this position it was taken by the enemy. In no sense could its delivery to the enemy be treated as an intentional act of the Pennsylvania authorities. The attorney-general for the State argued:

The object of it was to secure it from the depredations of the enemy; and that it afterwards fell into their hands was an event involuntary, and merely accidental, in which case Vattel says no compensation shall be made.

Thus distinctly recognizing the rule already cited from Vattel.

The case was decided upon two grounds: 1st. That no liability existed. 2d. The court could grant no relief if the applicant were entitled.

The rule we have stated was recognized by the mixed commission of British and American claims, constituted under the treaty with the British Government in 1871.

In the case of John Turner, No. 44, the claim was for a one-half interest in—

One dwelling-house, valued at	$5,000
Out-buildings, cabins, and fences destroyed	2,300
Valuable timber cut down to build military roads	300
	7,600

Claimant's one-half is $3,800.

This property, situate in Kent County, Virginia, had been held by the United States forces for hospital purposes. The dwelling contained a large quantity of hospital stores, and was then destroyed by the United

States forces to prevent these stores falling into the hands of the enemy. Hon. R. S. Hale, for the United States, argued that the United States might lawfully cut the timber for making roads. The property was in the direct track of McClellan's army, and that the government might lawfully destroy the military stores to prevent them falling into the hands of the enemy, and to do so they must destroy the house. That this destruction was not wanton and unnecessary, but a legitimate means of crippling the resources of the enemy. More than this, John Turner was permanently domiciled in the insurrectionary States; was an owner of real estate there; was foreman of the Tredegar Iron Works at Richmond, and so voluntarily contributing to the success of the Confederate cause.

Her British Majesty's counsel argued that the case came clearly within the ruling in Grant *vs.* United States, and the commission unanimously awarded the sum of $3,056 to be paid by the Government of the United States. Whether any part of this award was made to include the damages to timber, fences, &c., it certainly included damage for the destruction of the house; because, aside from the dwelling, the entire claim of Mr. Turner, including out-buildings and cabins, only amounted to $1,600, and allowing interest at 6 per cent. from June, 1862, to September, 1873, when the commission made their final report, and the total would not reach the amount of this award.

We are of opinion that the rights of a loyal citizen of the United States, domiciled in a loyal State, and who has voluntarily contributed to the support of the government beyond the demands which the nation lawfully imposed upon him, ought at least to be as readily recognized and as thoroughly protected by the United States as those of a British citizen domicited in an insurrectionary State and lending all aid to the enemy. A contrary supposition would imply a degree of humiliation which we will scarcely venture to suggest.

In the case of George Adlum, another British subject, No. 40, before the same commission, it would appear from the argument of the counsel for the United States that the award must have been for his house and corn-crib near Chattanooga, Tenn., taken down by the United States forces after a battle for use in building huts for shelter.

Another important consideration presents itself. Congress, by what is known as the abandoned and captured property act, provided for the restoration to loyal men in the insurrectionary States of the proceeds of property taken by the United States forces. Then came the several proclamations of pardon by the President, until it became the right of the men who had exerted their utmost efforts for the defeat of the government to come in and demand, under the legislation of Congress, that the proceeds of their property, lawfully captured from them as enemies in war, should be restored to them. (See United States *vs.* Klein, 1 Wallace, 128, p. 142, &c.)

Congress not only passed the abandoned and captured property act but approved or authorized (if they had the power to authorize) the President to extend pardon and amnesty to those who had been engaged in the rebellion.

We do not object to this. On the contrary, we heartily approve it. But to carefully protect the interests of those who sustained the war against us, and allow the loyal men who did their share to sustain the government to suffer loss under such circumstances, as the claimants in the present bill, is certainly not to encourage loyalty to the nation in any future conflict.

The majority of the committee fear that favorable action upon this bill ›uld establish a precedent for a large number of cases, and say:

f such losses had occurred in only a few instances, or had been confined to a limited trict of country, the general government might safely waive its legal rights and ıerously grant compensation for this class of damages.

If the legal obligation exists, the government cannot afford to ignore because of any expense which might follow its recognition. In the ›sent case we should go no further than to hold that when the United ıtes forces deliberately abandoned territory to the enemy as a matter military policy, and, for the purpose of crippling the enemy in their :ure possible or probable occupation of the abandoned territory, de-›yed the property of loyal citizens who were domiciled in a loyal ate, the obligation on the part of the government to compensate such mage is clear and cannot rightfully be avoided.

The claims which can be covered by such a precedent are necessarily v, and the district of country to which they are confined is necessarily ıited, but if the claims were more numerous and the district more tended, the injustice of refusing compensation would not be mitigated.

As to the claim of Charles T. Weston. He is insane, confined in an ylum at Danville, Pa. He has no committee or trustee, so far as we e informed, authorized to represent him. His claim has not been pre-ıted in accordance with the rules adopted by the committee, and the esentation of his claim appears to have been unauthorized and the ıult of a misunderstanding.

His case differs in several respects from those of John Torrey and lward W. Weston. It seems to us that until some person competent act for Mr. Charles T. Weston can be found, so as to give him some ınding before us, it is better that we should decline to consider his ıim, without prejudice to its future presentation before any competent ibunal.

We think it would be wise to provide for some judicial determination all this class of claims, but in the absence of such provision we re-›ectfully report the following substitute for the original bill, and recom-ıend that it do pass.

C. C. JADWIN.

A BILL for the relief of John Torrey and Edward W. Weston.

Be it enacted by the Senate and House of Representatives of the United States of America ı Congress assembled, That the Secretary of the Treasury be, and he is hereby, author-ıed and directed to pay to John Torrey and Edward W. Weston the sum of thirty housand five hundred and seven dollars and ninety cents, out of any money in the Treasury not otherwise appropriated, for property destroyed in the State of Virginia luring the late war.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1101.

SETTLERS IN WIND RIVER VALLEY, WYOMING TERRITORY.

APRIL 20, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HOOKER, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany bill H. R. 3511.]

The Committee on Indian Affairs have had under consideration the bill (H. R. 3511) for the relief of certain settlers in the Wind River Valley, Wyoming Territory, and given careful consideration to all the papers filed, the report of the Indian agent, as to the value and time of the improvements made by settlers, the letters of the Secretary of the Interior, &c.

It is shown that these settlers went upon these lands at a time when they belonged to the United States, and in good faith made their improvements, and that subsequently, in 1868, by a treaty made with the Shoshone and Bannock tribes of Indians, the government set aside the land on which these improvements has been made as a reservation for these tribes of Indians. It would appear to be but a simple act of justice to compensate these settlers for the improvements which they have made in good faith on the lands which the government has taken away from them.

Your committee therefore recommend the passage of the bill, allowing all these claims, except the claim of William Jones for $500, which appears to have been made after the treaty of 1868.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1102.

EXTENSION OF THE CAPITOL, NORTH O STREET AND SOUTH WASHINGTON RAILWAY.

APRIL 20, 1882.—Referred to the House Calendar and ordered to be printed.

Mr. PIERCE, from the Committee on the District of Columbia, submitted the following

REPORT:

[To accompany bill H. R. 2871.]

The Committee on the District of Columbia, to whom was referred the bill (H. R. 2871) to provide for the extension of the Capitol, North O Street and South Washington Railway, submit the following report:

The committee recommend the passage of said bill (H. R. 2871) with the following amendments:

1st. In line 10 of section 1 strike out the word "Eighth," where the same twice occurs in said line, and in lieu thereof insert the word *Ninth.*

2d. Add to section 2 the words, "*Provided, That no new track or tracks shall be laid along Ninth street from D street to Louisiana avenue, but said company may use the tracks of the Metropolitan Street Railway Company, between said points, upon such terms and conditions as may be provided in the original act of incorporation of said Capitol, North O Street and South Washington Railway Company.*

O

GRESS, } HOUSE OF REPRESENTATIVES. { REPORT
sion. } { No. 1103.

UTHERN MARYLAND RAILROAD COMPANY.

0, 1882.—Referred to the House Calendar and ordered to be printed.

E, from the Committee on the District of Columbia, submitted the following

REPORT:

[To accompany bill H. R. 4842.]

ittee on the District of Columbia, to whom was referred the bill H. R. 4842, submit the following report:

mittee recommend the passage of this bill, amended as fol-

strike out all that part of section 1, beginning with the word line 25, and ending with and including the word "Maryland," and inserting in place thereof the following: *May be now exer- ilroad companies organized under the general laws in force for the ion of railroad companies in the District of Columbia.*

strike out all of sections 2 and 3.

strike out all of the first seven lines of section 4, and to add to said section the following additional clause: *In crossing the ny other railroad, said Southern Maryland Railroad Company ruct its road either above or below the grade of said road.*

line 2 of section 7, to strike out the word "two" and insert the and in line 3 strike out the word "three" and insert the word

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1104.

PETITION OF ARCHBISHOP GIBBONS.

APRIL 20, 1882.—Laid on the table and ordered to be printed.

Mr. NEAL, from the Committee on the District of Columbia, submitted the following

REPORT:

The Committee on the District of Columbia respectfully report that they have had the said petition under careful consideration, and have come to the conclusion that the prayer of the petitioner should be denied for the reasons herein set forth.

The petition is as follows:

PETITION OF JAMES GIBBONS, ARCHBISHOP OF BALTIMORE.

To the Senate and House of Representatives of the United States of America in Congress assembled:

The petition of James Gibbons respectfully shows unto your honorable bodies that he is a resident of the city of Baltimore, in the State of Maryland, and is the Roman Catholic archbishop of the See of Baltimore, which includes within its limits the District of Columbia.

That he is seized and possessed of certain real estate situated and lying in the city of Washington, District of Columbia, to wit: lots numbered 5, 6, 7, 8, and 9, in square numbered 376, and holds the same for the use of St. Patrick's church, in said city and district.

That the said property was, prior to the year 1875, marked upon the books of assessment at the tax-office of the District of Columbia as "exempt from taxation."

That in the year 1879, the Commissioners of the District of Columbia, by their construction of the several acts of Congress relating to the assessment and taxation of property in said District, then, as your petitioner is advised, for the first time declared, decided that the said property, although exempt from taxation prior to 1875 by reason of the use for which it was held, became in said year, and has since remained, subject to assessment and taxation.

That no notice was given to your petitioner or to the pastor of said church that the said exemption of this property from taxation had ceased and determined until the said action of the Commissioners in 1879.

That by reason of the said use for which this property was held, your petitioner could not, prior to the year 1880, dispose of the same, or so use it as to derive therefrom a profit or revenue.

That in said year, 1880, your petitioner, by a decree of the supreme court of the District of Columbia, was authorized to sell, lease, and dispose of said property and apply the proceeds of said sales, &c., to the said St. Patrick's church. But that prior to that time, he was, as before stated, compelled to hold the same for the benefit of said church to which it was appurtenant.

Wherefore your petitioner prays that your honorable bodies will pass an act relieving said property, to wit: lots numbered 5, 6, 7, 8, and 9, in square numbered 376, from all taxes and assessments levied thereon prior to said year 1879, when for the first time notice was given by the District that the same had been taken from the list of property marked "exempt," and that it was and had been since 1875 subject to assessment and taxation.

JAMES GIBBONS,
Archbishop of Baltimore,
by I. A. Walter, pastor of St. Patrick's Church.

It will be observed that it is not claimed the property in question was really exempt from taxation under the provision of the several laws in force at the respective times the property was assessed for taxation. All that is claimed is that it was marked on the books of assessment of the tax-office of the District of Columbia as "exempt from taxation," and that the Commissioners of the District by their construction of the several acts of Congress relating to taxation, "in 1875 for the first time decided that the said property, although exempt from taxation prior to 1875, by reason of the use for which it was held, became in said year, and has since remained, subject to assessments and taxation."

The several acts of Congress in relation to the exemption of church property from taxation enacted since June 17, 1870, are as follows:

That from and after the passage of this act, all churches and school-houses and all buildings and grounds appurtenant thereto, and used in connection therewith in the District of Columbia, shall be exempt from all taxes or assessments, national, municipal, or county.—(Act of June 17, 1870).

Church buildings and grounds actually occupied by such buildings.—(Act of March 3, 1875).

Churches * * * and grounds actually occupied by such buildings.—(Act of March 3, 1877).

Your committee are clearly of opinion that the property in question was not exempt from taxation under the provisions of any of the above-cited acts, for it was not necessary to the proper use and full enjoyment of all church buildings erected upon other portions of said square, nor is it so regarded by the petitioners, since the same is being leased for secular purposes. Consequently its exemptions from taxation by the executive authorities of the District since the year 1870 would have been in violation of the provisions of the above-cited acts.

The petitioner seems to rely, as an equitable argument for the relief prayed for, upon the fact that the property has been of no practical value to its owners. This is a consideration that the authorities cannot take notice of, otherwise the owners of all property, who suffer it to lie idle, might submit the same reasons for relief from taxation. The government must tax property in whatever shape or condition it may find it, and the only reason why any property is exempted is because that churches, school-houses, and charitable institutions are found by the experience of mankind to confer benefits upon the State and community commensurate with the taxes that would otherwise be levied thereon. In this instance the property has more than doubled in value in the past ten years, and can in the future be made a source of continued and great income to its owner, so that there are in fact no equitable considerations why it should be exempt.

Again; your committee are of opinion that no further extensi[illegible] should be made of exempted property of the District without the m[illegible] weighty reasons therefor. At the present time there is exempt m[illegible] than one-seventeenth of the entire taxable real estate. For the inf[illegible] mation of the House, we make the following tabular statement of t[illegible] taxable and exempt property of the District:

Taxable real estate	$88,953,0[illegible]
Real estate of the United States	83,416,1[illegible]
Real estate of the District	1,250,7[illegible]
Real estate exempted from taxation	5,351,7[illegible]
Total real estate	178,971,73[illegible]

The exempted property is held under the following ownerships:

Roman Catholic churches	$695,95[illegible]
Roman Catholic school-houses	926,691
Roman Catholic asylums	282,95[illegible]

l churches	$496,276
l asylums	33,073
t churches	636,449
ian churches	367,892
hurches	319,921
churches	156,331
churches	85,619
tional churches	117,162
hurches	30,280
churches	10,810
churches	10,293
rgian churches	7,704
University	226,000
Seminary	28,707
Orphan School	5,103
n University	95,945
ton City Orphan Asylum	59,440
ome	180,490
Soldiers' and Sailors' Orphans' Home	32,584
Art Gallery	191,794
Christian Association	20,900
easant Hall	4,352
of foreign governments	124,350
ke and Ohio Canal Company	4,034
es	200,669

enture the statement that no section of the United States, of the pulation, has as large a proportion of its real property exempted xation as has this District. And when it is remembered most school property exempt is used and occupied by schools which provide for the free education of youth, and that, in addition ample provision is made in the free schools for the liberal edu- f all the youth in the District without cost to themselves, their or guardians, the liberality of the Federal Government and the f the District cannot be regarded in any other light than as ex- ary. To the extent that property is exempted from taxation, rdens fall with increased force upon the property that is subject nd that, too, without giving the people, whose property is thus ny voice in the legislation which imposes these taxes or any in- in directing how the taxes shall be expended. We deny to them political rights of self-government. We treat them as Great sought to treat our forefathers—we tax them without repre- n. Surely if such a system is found to be necessary in any the United States, we should be careful that it is not abused, t the people who are subject to it are generously and magnani- dealt with.

committee, therefore, are of the opinion that the petitioner is itled to the relief he asks for, and pray to be discharged from consideration of said petition.

O

TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1105.

EDEMPTION OF OUTSTANDING CERTIFICATES OF ASSESSMENT ISSUED BY THE LATE CORPORATION OF WASHINGTON.

APRIL 20, 1882.—Referred to the House Calendar and ordered to be printed.

:. NEAL, from the Committee on the District of Columbia, submitted the following

REPORT:

[To accompany bill H. R. 5772.]

ie Committee on the District of Columbia, to whom was referred the bill (H. R. 5772) to provide for the redemption of outstanding certificates of assessment issued by the late corporation of Washington, &c., submit the following report:

The certificates of lien upon real estate, assessed for the payment of ecial improvements, proposed to be redeemed by this bill, are of those hich were issued by the late corporation of the city of Washington hen M. G. Emory was mayor. Those particular certificates were isied upon property owned by church organizations, the Government of ie United States, and in one instance by a person whose property was onfiscated, and, having died, Congress by special act relieved his proprty from the lien of said assessment. The work was done; lien certifiates issued therefor; the contractors and others have not been paid. 'ongress by its deliberate action has taken away all means of payment. lare justice requires that some relief should be afforded. In this bill t is proposed to issue drawback certificates for the work actually done, educing the rate of interest from 10 per cent. as set forth in the certifiates to 6 per cent., and making these drawbacks receivable for arrears f general and special taxes due prior to July 1, 1879.

We can conceive of no reason why the bill should not pass.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1106.

CIVIL GOVERNMENT FOR ALASKA.

APRIL 20, 1882.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. J. S. RICHARDSON, from the Committee on the Territories, submitted the following

REPORT:

[To accompany bill H. R. 5900.]

The Committee on the Territories, to whom was referred the bill H. R. 3754, which, by its terms, provides a Delegate and a limited form of government for what is styled in the bill as Southeastern Alaska, has had the subject under consideration and has been unable to find (though this conclusion was not reached by a unanimous vote) that a Delegate is needed to represent this Territory in Congress, and has therefore stricken this provision from the bill; but, after examining quite a number of witnesses and bringing to its aid all the sources of information within its reach as to the wants and resources of Alaska, finds that a Territorial government is needed and should be established for this Territory.

The bill referred to your committee provides for such a government for Southeastern Alaska, but your committee can see no sufficient reason for not extending such government over the whole Territory. While the want of government is perhaps more felt, and the demand for it comes up more directly from Southeastern Alaska, it is also felt and needed to a considerable extent in the rest of the Territory; and, as the expense of providing a Territorial government for the whole Territory will be but very little if any more than if it be limited to Southeastern Alaska, it is recommended that the provisions of the bill be extended so as to make it cover the whole Territory.

In the judgment of your committee, Congress should no longer delay to establish a government for this Territory. We reach this conclusion from several considerations:

First. Because it is due to the people of the Territory by our treaty stipulation. By the treaty of the 30th of March, 1867, the United States Government agreed and stipulated with Russia that the inhabitants of Alaska, in case "they should prefer to remain in the ceded Territory, * * * shall be maintained and protected in the free enjoyment of their liberty, property, and religion." (15 Stat. at L., p. 542.) Fifteen years have passed since our government entered into this solemn obligation, and yet we have utterly failed to provide any government for the protection of the property or the lives of the people in that Territory.

Secondly. Because the people of this Territory, feeling the need of some form of government for the country they live in, are asking it from Congress. For years the people of at least a portion of Alaska have been asking Congress to give them some form of government;

and they are here to-day, with their petition, memorial, and delegate or agent, asking for legislation at the hands of Congress. Since 1869 to the present time there have been introduced into Congress, Senate and House, twenty-five bills to establish some form of government for Alaska. Some of these measures were to establish a movable court, on board of a revenue cutter; others, to attach this Territory to the Territory of Washington, and give the inhabitants the use of the courts and laws of that Territory; some, to extend the Territorial land laws over Alaska; and some, to give it a Territorial government. These measures, or some of them, have been, from time to time, reported on favorably, but no final action has been taken on any of them; and to-day, after fifteen years of our possession of that Territory, we have failed to perform what we stipulated to do under our solemn treaty. The fact that so many bills have been introduced, year after year, to establish some form of government for Alaska shows that the want of such a government is felt, and sorely felt, by the people inhabiting that Territory.

Thirdly. Because the population of the Territory is sufficient to warrant the expense of establishing such a government. Your committee believes in the principle that a population of 500 should receive the protection of law and government as well as one of several thousands; but, as there may be those who think differently, the population of the Territory, as found by the last census, is here inserted:

Population of Alaska.

Divisions.	Whites.	Creoles.	Aleuts.	Innuits.							Indians.	Total.
				Kodiak.	Toglak.	Bristol Bay.	Kuskokvim.	Yukon.	Bering Sea.	Arctic.		
Yukon division	28	10						3,339	633	2,990		7,000
Interior division											2,226	2,226
Kuskokvim division	2						3,505				147	3,654
Bristol Bay division	1	90	324		1,826	2,099						4,340
Kadiak parish	23	770		1,798							15	2,606
Kenai mission	9	64		98							813	984
Belkovsky parish	36	223	410									669
Oonalashka parish	28	256	1,108									1,392
Pribylov Islands	18		372									390
Saint Lawrence Island (estimated)									400			40
Nunivak Island (estimated)									500			50
Total west of Prince William Sound	145	1,413	2,214	1,896	1,826	2,099	3,505	3,339	1,533	2,990	3,201	24,1
Estimate of Prince William Sound				300							200	5
Southeastern Alaska	247	270									5,000	5,5
Grand total	392	1,683	2,214	2,196	1,826	2,099	3,505	3,339	1,533	2,990	8,401	30,17

The above is the population, as found by the census agent nearly two years ago. In the opinion of a number of witnesses examined before your committee, some of whom have been in Southeastern Alaska during the last summer, the population of that part of the Territory has increased considerably since that time. Several witnesses claim that the white population in that section has increased, within the last eighteen months, to 1,500; and none place the present white population there below 1,000. All concur in saying that the increase is more rapid than had

reviously known, and nearly all unite in the opinion that this
e would continue if there were any laws to control and govern
uisition of property, and to protect it when acquired. The Rev.
ı Jackson, a Presbyterian missionary to that country, gives the
ıg as the present population of South eastern Alaska: Whites,
300 to 1,400; Russians, 300; Indians, 6,000.
rding to Dr. Jackson, and he is sustained by nearly all the wit-
the whites in Southeastern Alaska are chiefly from among our
ople. The Russians are those "inhabitants of the ceded Terri-
'ho have "preferred to remain in the ceded Territory," and whom
ulated to "maintain and protect in the free enjoyment of their
property, and religion." The 6,000 Indians of this section are a
ıt class from the nomadic tribes of Alaska. They dwell in per-
houses and in villages; they dress much as Europeans; they are
ıstrious people, and are employed as cooks, deck-hands, engi-
ınd pilots; also as miners. When the rivers are low they are the
n carriers of the country, and are faithful as such, transmitting
canoes, with care and certainty, whatever is intrusted to them.
xcel in carving in wood, metal, and stone. They rapidly yield
rment, are easily taught, and have embraced readily the teach-
the missionaries among them.
thly. Because the trade and resources of the Territory needing
ion and development are sufficient to warrant the expense.
not claimed for Alaska that it is, or can ever become, an agri-
l country. Rugged, mountainous, and to a certain extent barren,
soil and climate unsuited to farming operations, it holds out no
of success to the agriculturist. A reasonable variety of vege-
ınd some fruits and berries are all that can be expected from its
l climate. Upon this point the last census report holds the fol-
language:

w pass to an interesting and fruitful bone of contention, that is the agri-
and pastoral resources of Alaska. So much has been said upon this topic, of
eclamation on one hand, and indignant remonstrances on the other, that we
very cautious in our presentation of what we believe and know to be the fact.
first place, let us preface our remarks with this statement: That the cereal
ınot be grown in Alaska. It has been settled by numberless patient and re-
ests in the most favorable localities. Also, that the fruit trees, and the small
our gardens here as we grow them and recognize them (unless it be the
ry and the cranberry), cannot be cultivated successfully up there. But these
o have in Alaska quite an abundance of indigenous hardy shrub fruits, such
ve specified in our chapter upon the settlements. The statement made by
ıigh authority that wild apples are indigenous and perfect their fruit at
a mere figure of speech; but the other half of the assertion that wild roses
ıre is true; for that matter the wild rose blossoms with a rosy flush and the
ın of perennial flowering up the Yukon, while the flowers, the violets, the
ored pea, and indeed the whole long list covering nearly 200 species of lovely
ng annuals and perennials are found everywhere on the little prairie-like
ı the bare hills of the Aleutian Islands, sweeping on and over the great moor
tra of Alaska.
hen we take up the subject of the vegetable garden, we find that there are
ı in Alaska where for the last eighty years, or even more than that, up to
ent date they have and they do plant and raise good potatoes, though we
ay perhaps that this raising of these tubers is not a certain success year after
ept at one or two points where it has been satisfactorily demonstrated within
ander Archipelago, namely, at the mouth of the Stakhine River, at Fort
l, and at Prince of Wales Island. The potato grounds of Alaska, however,
h care and due diligence and common sense combined be made to furnish
Alexander Archipelago, in Cook's Inlet, at Kadiak Island and islets con-
and at Bristol Bay, a positive source of food supply to the inhabitants. It is
erally known that on Afognak Island, according to the best of our personal
ge, there are nearly 100 acres of land dug up in patches here and there which
ted by the inhabitants, and from which they gather an annual harvest of

potatoes and turnips. They have no fields spread out, squared up, and plowed anywhere in Alaska. The cultivation as it is conducted to-day, is directed in this manner: The little openings in the forest or the cleared sides of a gently sloping declivity in sheltered situations are taken up by the people who turn out, with rude spades of their own manufacture, principally, for the purpose of subjugating and overturning the sod. Many of the gardens, noticeably those at the Kadiak village itself, are close by the settlement, while others are at some distance.

The potato crop at Kadiak this year was a total failure: it will happen so at intervals of from four to six years, when it occurs in this way: The winter preceding the planting has been an unusually cold and protracted one, and the short season, at the best, of summer is cut off by unwonted early frosts during September and the latter part of August. The usual growing season, however, opens early in June—from the 1st to the 10th; the potatoes are planted in May, coming up and growing freely until October, when they are harvested. This growth of potatoes, fairly established and well defined, presents the only firm and tangible evidence that we have of agricultural capacity within the limits of Alaska. The turnip grows and flourishes wherever the potato succeeds.

But its other resources are very considerable.

Its fisheries, in the opinion of all the witnesses, are almost inexhaustible, and in itself this industry is capable of constituting a business so vast and profitable as to make Alaska the most valuable and wealth-producing Territory owned by the United States. These may be summarized as follows:

The *whale fishery* has a capital now invested in it of at least $250,000, and doing a business of several million dollars annually.

The *cod fishery* has a capital also of about a quarter of a million dollars invested, and doing a business of about a million dollars annually.

The *dog-fish*, the *salmon*, the *mackerel*, the *halibut*, the *herring*—these all, in their season, are almost inexhaustible, and several of them have now quite a considerable amount of capital invested in them, and it is stated by several of the witnesses that the business would be enlarged and extended if the protection of law and government was thrown around the Territory.

The *fur-seal trade*, as is generally known, is considerable and very profitable. From it the government now derives an annual revenue of over $300,000.

The sea-otter trade and the land-fur trade, derived from the furs of the fox, the land-otter, the bear, the beaver, and the reindeer are all very considerable, and could be made quite profitable.

The *timber resources* of Alaska, though considerable, cannot be expected to be brought prominently into the markets of the world while the immense forests of Oregon, Washington Territory, and Southern British Columbia stand ready to compete with it, but still this supply is there, and is important enough to receive this mention in enumerating the resources of the Territory.

There are other resources in the Territory which should be referred to in this connection. The gold, silver, coal, and iron mines, or rather ores. The census report is referred to for exact data on these points. In reference to the gold mines the last census report says:

In regard to the reputed findings of large paying gold mines and other precious minerals, we can only say that as far as is known to-day there is nothing of the kind in Western Alaska; at least, there is nothing located and worked as such, though the prospecting or searching is as active as it has been since the transfer, and is likely to continue. The surface of the country in Southern Alaska being so mountainous concealed by the timber cloak everywhere covering it, is, of course, a slow and exceedingly difficult undertaking to penetrate any distance back, up, and among the mountain valleys in search of mineral. The color of gold can be washed out of the sands of every little stream emptying into the ocean on the northwest coast, and in many places it can be found by searching in the surf-beaten beaches of the sea-coast itself. But the question immediately arises with the miner, "Will it pay?" and by that he means "Will it yield me $4 to $10 per day if I work it?" Less return for his labor does not satisfy him, nor will it bring others to the places.

The gold bearing belt of the Rock Mountain divide, so familiar to us as it crops out all through our States and Territories, and which we leave at Boise City, in Idaho, for instance, or Salmon Diggings above, *reaches undoubtedly up and on, as rich at that point in the far north and trending to the Arctic Sea itself as it is where we now note it and work it with so much success.* But it must be borne in mind that with every degree of northern latitude as we ascend we cut off working-days, as the icy grasp of frost checks the flow of water and shuts down the mills, so that when this gold-bearing belt crosses into our Alaskan boundary away back, and concealed from the sea by the towering summits of the Coast Range, we find it so far north as to be practically barred out from our miners unless they shall find the free gold and a rich quartz in unwonted abundance.

But several witnesses examined before your committee assert that in Southeastern Alaska there are a number of gold mines recently discovered which have yielded $150,000 within the first year of their discovery, and that there are no less than six new companies organized and incorporated in different portions of the country for carrying on this business in this section of Alaska.

The Presbyterian Board of Home Missions have established in Southeastern Alaska a number of churches and schools, and have invested a considerable amount of money in the erection of houses and stations. This board expends about $15,000 annually for these purposes in this section. The Roman Catholic Church has also established a mission there which is kept up at considerable expense.

All these interests, in the opinion of witnesses, need the control and protection of law, and are languishing for the want of it.

Iron ore.—Mr. Caleb T. Fay, of San Francisco, Cal., one of the witnesses examined before your committee, speaking of the iron ore found in Alaska, says it is of a high grade of magnetic oxide, free from sulphur and phosphates, and equal in quality to the best Swedish and Russian ore, and is found in very large quantities in both Western and Eastern Alaska.

And fifthly. Because some form of government is absoluely needed to afford protection to life and property within the Territory. We cannot expect our people to go there and live and develope the country until we give them some law by which they can acquire and hold property, and which will protect them in their lives and liberty.

In view of the necessity for some authorized form of legal government to control and regulate these people and their various and valuable interests, your committee does not hesitate to recommend the establishment of some government for Alaska. We find that it is due to these people by our treaty stipulations, and that it is to the interest of the government to do this, in view of the considerable business and material interests we own in the Territory.

In considering what should be done, and how far we should go, your committee has thought it best to establish for the present as inexpensive a government as possible, and to that end recommend the passage of the bill herewith reported. This bill is in all essential features the House bill 3754, with the provision for a Delegate stricken out, and its other provisions made to extend to the whole Territory of Alaska.

In the judgment of your committee the bill proposed for your adoption will meet all the present wants of the Territory and those that are likely to arise for some years to come. The entire annual expenses of the government under this bill will not exceed $12,000. To do more your committee would not feel warranted in recommending, and to do less would be a failure on the part of Congress to discharge our duty to the people of Alaska, as to perform our solemn treaty stipulations.

CIVIL GOVERNMENT FOR ALASKA.

MAY 11, 1882.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. VAN VOORHIS, from the Committee on the Territories, submitted the following as the

VIEWS OF THE MINORITY:

[To accompany bill H. R. 5900.]

Dissenting views of members of the Committee on the Territories on the bill providing a civil government for the Territory of Alaska.

The undersigned members of the Committee on the Territories are of opinion that the bill reported by the committee should be amended by restoring to it sections 11 and 12 of H. R. No. 3754, which sections provide for the election of a Delegate to represent the Territory of Alaska in the House of Representatives.

The total population of Alaska is upwards of 30,000. Of these, 392 are whites, 1,683 creoles, 2,214 Aleutes, and the balance Indians, a portion of them to a certain extent civilized. We know of no other way in which Congress may be informed concerning the business affairs and government interests of Alaska than by permitting it to be represented. There can be no objection except upon the score of economy. The economical argument fades when it is remembered that Alaska pays more revenue into the Treasury by far than any other Territory, and probably all the other Territories together, and no State west of the Rocky Mountains, except California, pays as much. While the revenue derived at present from the Territory of Alaska is something above $300,000, we are very strongly inclined to the opinion that if the government interests were looked after as they should be that the revenue would amount to a million, and, in time, much more. We therefore recommend the passage of the bill reported by the committee, with sections 11 and 12 added to it, which sections are as follows:

SEC. 11. That a Delegate to the House of Representatives of the United States shall be elected by the qualified voters of said district, who shall be a citizen of the United States and reside in said Territory, and shall serve for the term of two years, and be entitled to the same rights and privileges as are exercised and enjoyed by Delegates from the Territories of the United States to the said House of Representatives. The first election for such Delegate shall be for the Forty-eighth Congress, and shall be upon the Tuesday after the first Monday in September, in the year eighteen hundred and eighty-two; and thereafter such election shall take place on the same day in every second year. The district court hereby created shall appoint judges of election, and direct where the polls shall be opened at each of the white settlements in said district, and arrange the details of said election. The said judges of election shall make their returns to the board of canvassers that may be appointed, who shall certify the same to the attorney hereby provided for, and he shall issue a certificate of election to the person elected, which shall be attested by the clerk of said court, under his official seal, and forwarded as in such cases provided.

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1107.

APPROPRIATING GROUND IN THE CITY OF PHILADELPHIA FOR PUBLIC PURPOSES.

APRIL 20, 1882.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. FISHER, from the Committee on Coinage, Weights, and Measures, submitted the following

REPORT:

[To accompany bill S. 813.]

That Senate bill No. 813 is the same bill *verbatim* as House bill No. 5198, now on the Calendar of the Whole House on the state of the Union, accompanied by report No. 740. This report the committee re-adopt, and report back the accompanying bill, and recommend that the same do pass.

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1108.

TO ESTABLISH A BOARD OF REVIEW IN PENSION AND BOUNTY LAND WARRANT CASES.

APRIL 20, 1882.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. JOYCE, from the Committee on Pensions, Bounty, and Back Pay, submitted the following

REPORT:

[To accompany bill H. R. 4711.]

The Select Committee on the Payment of Pensions, Bounty, and Back Pay, to whom was referred the bill H. R. 4711, *having duly considered the same, beg leave to report:*

That the object and purpose of the bill is to establish a board or tribunal, in connection with the Pension Bureau, for the examination and final determination of all pension and bounty land claims which have been, or shall hereafter be, rejected by the Commissioner of Pensions.

The bill has been very carefully drawn, is complete and full in all its details, and is properly and safely guarded.

The claims covered by the bill now all find their way to Congress, where many of them are examined and reported upon Congress after Congress, but very few of them finally get through.

If this bill is enacted into a law, Congress will be relieved of this vast number of claims, and they will be examined and determined in the life-time of the claimants. Your committee therefore recommend the passage of the bill as amended.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1109.

PAYMENT OF PENSIONS.

APRIL 20, 1882.—Referred to the House Calendar and ordered to be printed.

Mr. CURTIN, from the Committee on Pensions, Bounty, and Back Pay, submitted the following

REPORT:

[To accompany bill H. R. 3920.]

The Select Committee on the Payment of Pensions, Bounty, and Back Pay, to whom was referred bill H. R. 3920, having duly considered the same, beg leave to report:

That this bill recites the law as it now exists down to and including the word "laws," in the seventeenth line of the printed bill, and all after that word are new provisions which it is proposed to incorporate into the said law contained in section 4766 of the Revised Statutes.

These new provisions are so plain and explicit that no comments would seem to be necessary in this report.

The committee recommend an amendment to the bill, as shown by paper attached thereto, and, when so amended, the committee are of opinion the bill ought to pass.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1110.

TO AMEND PENSION LAWS.

APRIL 20, 1882.—Referred to the House Calendar and ordered to be printed.

Mr. HAWK, from the Committee on Pensions, Bounty, and Back Pay, submitted the following

REPORT:

[To accompany bill H. R. 1247.]

The Committee on Pensions, Bounty, and Back Pay, to whom was referred House bill No. 1247, having duly considered the same, beg leave to report:

By the act of Congress of March 3, 1873, for the period commencing July 4, 1864, and ending June 3, 1872, a pension of $25 per month was given to those persons who had lost the sight of both eyes in the military or naval service of the United States.

It was also provided by the same act that from and after June 4, 1872, every person who had lost the sight of both eyes, or lost the sight of one eye, the sight of the other having been previously lost, should receive a pension of $31.25 per month.

By the act of June 18, 1874, the pension in such cases was raised to $50 per month; and again, by the act of June 17, 1878, it was increased to $72 per month.

This bill provides that for the loss of one eye the person shall receive $12 per month, and in case the other eye is injuriously affected he shall receive an equitable increase of pension, the whole not to exceed $25 per month. The provision of the bill in regard to persons who have lost one eye, the other having been previously lost, does not change the law as established by the act of June 18, 1874.

The act of March 3, 1873, provided that, from and after June 4, 1872, all persons who had lost the hearing of both ears should be entitled to a pension of $13 per month.

This bill increases the pension in such cases to $25 per month, and also provides that for any loss of hearing less than total deafness in one or both ears the person shall receive an equitable portion of the full pension.

After a careful consideration of this bill, this committee are of the opinion that it ought to pass.

ONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 1111

IEND SECTION 4702 OF THE REVISED STATUTES IN RELATION TO PENSIONS.

APRIL 20, 1882.—Laid on the table and ordered to be printed.

AWK, from the Select Committee on the Payment of Pensions, Bounty, and Back Pay, submitted the following

REPORT:

[To accompany bill H. R. 1739.]

committee have duly considered the bill H. R. 1739, and are of ı that the same ought not to pass.

ion 4702 of the Revised Statutes provides in the last clause of the hat in case the widow of the soldier to whom a pension has been d remarry, the child or children shall be entitled to receive the ı from the date of said widow's remarriage.

bill amends said section so that in such case the child or children eceive the pension from the time of the last payment to the who had remarried.

committee are of the opinion that the law as now in force is more ble and just than would be the case if the provisions of this bill become the law.

bill is therefore returned with the recommendation that the same pass.

NGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
ssion. } { No. 1112.

›NS FOR LIFE-SAVING, RAILWAY MAIL, AND INTERNAL-REVENUE SERVICES.

APRIL 20, 1882.—Laid on the table and ordered to be printed.

VK, from the Committee on Pensions, Bounty, and Back Pay, submitted the following

REPORT:

[To accompany bill H. R. 3490.]

›mmittee on Pensions, Bounty, and Back Pay, to whom was re-
ıe bill (H. R. 3490) granting pensions for injuries received and
es incurred in the life-saving, railway mail, and internal-revenue
of the United States, having considered the same, have deter-
› return said bill to the House with an unfavorable recommen-

›mmittee are of the opinion that the time has not arrived when
›s have arisen that make it necessary to recommend the enact-
ı law creating a civil pension list.
opposed to the principle of establishing such a list, the com-
› not desire to express an opinion against the propriety or ad-
y of considering cases that may arise in the various branches of
service upon their individual merits, and that the same may be
›d by Congress, and passed upon as justice may demand in
ticular case at the time of consideration.
. be found, upon an examination of the facts contained in the
ıts attached hereto and made a part of this report, that the loss
nd physical injury sustained in proportion to the number en-
ı the various departments named of the civil service is not
›ut of proportion to that sustained in the ordinary avocations

›llowing, taken from Ex. Doc. No. 74, first session, Forty-sev-
ıgress, furnished by the Secretary of the Treasury in compli-
h a resolution of the House of Representatives of January 30,
es the number killed or drowned in the Life-Saving Service from
, 1876, to May 15, 1881, at 21; the number reported to have
n exposure during the same time at 3, making a total of 24.
›iled statement was furnished by S. J. Kimball, general super-
t of the Life-Saving Service, viz:

List of persons who have died "by reason of any wound or injury received or disease contracted in the line of duty in the Life-Saving Service since the origin of the service," so far as shown by the records of the Treasury Department.

Date.	Name.	Grade.	Station.	District.	Nature of casualty, &c.
1876.					
Mar. 1	John R. Gale	Keeper	No. 4	Sixth	Drowned while attempting to rescue the crew of the wrecked Italian bark Nuova Ottavia off coast of North Carolina.
	Lemuel Griggs	Surfman	do	do	
	Lewis White	do	do	do	
	Malachi Brumsey	do	do	do	
	Spencer D. Grey	do	do	do	
	J. Munden	do	do	do	
	George W. Wilson	Volunteer	do	do	
1877.					
Jan. 5	John Parker	Surfman	No. 16	Fourth	Died out on night patrol.
Mar. 30	H. H. Nickerson	do	No. 14	Second	Fell from aloft and instantly killed while assisting in saving property from Italian bark Papa Luigi C.
Nov. 25	J. J. Guthrie*	Superintendent		Sixth	Drowned while attempting to go to the assistance of survivors of crew of United States steamer Huron.
1880.					
Apr. 23	William J. Sayers	Surfman	No. 2	Tenth	Perished in attempting to go to the assistance of distressed schooner J. H. Magruder on reef off Point Aux Barques, Lake Huron.
	Robert Morrison	do	do	do	
	James Pottenger	do	do	do	
	Dennis Deegan	do	do	do	
	James Nantau	do	do	do	
	Walter Petherbridge	do	do	do	
Oct. 20	Joseph Sawyer	Superintendent		do	Drowned off Rogers City, Mich., while making tour of stations in his district.
	George Feaben	Keeper	No. 8	do	Drowned off Rogers City, Mich., with Superintendent Sawyer while transporting him from Station No. 8, tenth district.
Nov. 30	David H. Atkins	do	No. 7	Second	Perished while attempting to take ashore crew of stranded sloop C. E. Trumbull.
	Elisha M. Taylor	Surfman	do	do	
	Stephen F. Mayo	do	do	do	
1881.					
May 15	David Hitchens	Keeper	No. 11	Fifth	Reported to have died from disease caused by cold and exposure while in the line of duty.
	George J. Warner	do	No. 8	do	Reported to have died from disease caused by cold and exposure while in the line of duty.
	Warner Collins	Surfman	No. 10	do	Reported to have died from disease caused by cold and exposure while swimming to a boat during the gale and tidal wave of October 2, 1878.

* By act of Congress approved May 25, 1878, Superintendent Guthrie's widow receives the same pension as the widows of deceased captains of the Navy.

The facts presented in the following detailed statement furnished by Hon. Green B. Raum, Commissioner of Internal Revenue, to the Hon. Charles J. Folger, Secretary of the Treasury, on the 6th of February, 1882, in response to a resolution of the House of Representatives, gives a full account of those killed or wounded in the enforcement of the internal-revenue laws since 1875, there being no record prior to that date:

TREASURY DEPARTMENT,
OFFICE OF INTERNAL REVENUE,
Washington, February 6, 1882.

SIR: In response to the resolution of House of Representatives, referred by you on the 1st instant to this office, I have the honor to transmit a list of the officers and employés of this bureau, and of the Department of Justice, so far as the records of

ıstrict of Arkansas:

875.—Deputy Collector Holman Leatherwood.
ber, 1880.—Deputy Marshal John P. Hardy.

of Arkansas:

Deputy Marshal Thomas P. Rogers.

ıtrict of Georgia:

ıber, 1878.—Deputy Marshal Kimbrew.

istrict of North Carolina:

ıry, 1879.—S. W. Seawell, employed to assist officers in the seizure of an il-
llery.

trict of North Carolina:

ıry, 1877.—Deputy Marshal Harkins.

of South Carolina:

ıry, 1877.—Deputy Collector Hendricks, Greenville County.
878.—Deputy Marshal Rufus Springs.
881.—Deputy Collector Thos. L. Brayton.

istrict of Tennessee:

t, 1878.—Deputy Collector John Cooper.

trict of Tennessee:

t, 1876.—Deputy Marshal John Minnis.

istrict of Tennessee:

r, 1876.—Deputy Marshal F. H. Torbert.

ove-named officers and employés were killed while in the actual discharge of
ies in enforcing the internal-revenue laws.

llowing-named persons were reported to have been killed for giving informa-
he illicit operation of distilleries and rendering assistance in the seizure of
. They were not killed while in the actual discharge of their duties.

istrict of Georgia:

r, 1877.—Samuel Kenney, Pickens County, was shot and killed by illicit dis-
ho suspected him of having given information against them.
, 1877.—A colored man, name unknown, was employed in locating an illicit
in Douglas County, operated by the Tucker Bro's. He was last seen in
ll County, and it is conceded by citizens in that county that he was murdered
wn into the Sweetwater River.
1877.—Benton Whitecotton, of Hall County, disappeared in July. Subse-

an informer against illicit distillers, was murdered in the presence of his family, by masked men.

June, 1879.—Orlando Poole, Pickens County, was shot in his own house by a party of men some of whom had been arrested for violating internal-revenue laws. Poole was suspected of having given information against these persons.

———, 1880.—Taylor Cowart, who had been a witness against illicit distillers in Rabun County, was called to his door in the night and shot dead.

———, 1880.—Waits, who had formerly been employed as guide to illicit distilleries by the officers, was killed in Campbell County.

Second district of Kentucky:

January, 1879.—William Pflang, guide, shot while returning with revenue officers from a raid in Hart County, where they had seized illicit distilleries. It is supposed that the shot was fired by illicit distillers concealed by the roadside, though the murderers have never been discovered.

District of South Carolina:

May, 1877.—Powers, guide and informer, shot and killed May 12, 1877. Powers had acted as guide and informer to the revenue force, and was killed while working in a field near his home. The prevailing impression was that he was murdered by some parties whose stills he had been instrumental in breaking up.

June, 1877.—James Ledford, guide and informer, killed at Block House, Spartanburg County, June 11, 1877. Ledford had acted as guide in locating illicit distilleries; this fact became known, and while on an excursion train on the Spartanburg and Asheville road he was dragged from the cars by a number of South Carolina and North Carolina distillers and murdered in the presence of the whole excursion party.

Fifth district of Tennessee:

October, 1877.—Thomas J. Williams, who had been a guide to Deputy Collector A. M. Hughes to illicit distilleries in Lawrence County, was taken from his house at night by disguised men and murdered for giving the information.

September, 1878.—James Speare, who had been employed by Deputy Collector Davis as a guide to illicit distilleries, was shot while he was leaving the court-house in Tracy City in company with Davis. Davis had previously been attacked by illicit distillers while in the act of seizing stills, and in self-defense had shot one of them. For this he was indicted, and was attending court for the trial of this case, accompanied by Speare, who was a witness in his behalf.

January, 1880.—W. A. Fowler, who had given information to deputy collectors against illicit distillers, was killed in Lawrence County.

December, 1881.—Jerry Ausbrook, who had recently been a guide to the officers to illicit distilleries, was killed in his own house by persons unknown, supposed to be by illicit distillers.

Fifth district of Virginia:

May, 1877.—Jesse Vandevinter, who had assisted officers in seizing illicit distilleries, was killed in Lee County.

List of officers and employés wounded in the execution of the internal-revenue laws.

Second district of Alabama:

February, 1880.—William Spelce, guide.
September, 1880.—William Lowe, deputy collector, Calhoun County.
December, 1880.—Horace J. Bone, special deputy collector, Marshall County.

Second district of Georgia:

———, 1877.—James A. Findlay, deputy marshal, Lumpkin County.
January, 1878.—John Moore, guide, Campbell County.
December, 1878.—John A. Crawford, deputy marshal.
December, 1878.—James McMichael, deputy marshal, Butts County.
January, 1879.—D. J. Wigley, guide.
January, 1879.—N. L. Alexander, special deputy collector, Campbell County.
January, 1879.—Isaac A. Harrell, Campbell County.
February, 1879.—James B. Prather, guide.
March, 1879.—Doc. Smith, guide, Rabun County.
November, 1879.—W. T. Poole, deputy collector, Towns County.
November, 1879.—J. M. Daniel, J. M. Cobb, and P. W. Pittman, deputy collectors, Rabun County.
December, 1880.—W. T. B. Wilson, deputy collector, Dawson County.
June, 1881.—Robert Bolton, deputy marshal.
November, 1881.—Taylor Love, guide, Habersham County.

y, 1878.—F. V. Logan, deputy collector, Wayne County.

istrict of North Carolina:

y, 1879.—E. Grady, guide, Stanley County.

trict of North Carolina:

1878.—R. T. Joyce, deputy collector, Stokes County.
ry, 1881.—Deputy Collector Worth and J. S. Sethco, Randolph County.

trict of North Carolina:

r, 1877.—A. B. Gillespie, Burke County.
r, 1877.— ——— Patterson, deputy marshal.
880.—Deputy Collector Crumpler, Wilkes County.

f South Carolina:

y, 1877.—E. H. Barton, deputy collector, Pickens County.
1878.—Lee R. Fisher, guide, Pickens County.
1879.—H. D. Byron, deputy collector, Spartanburg County.
ry, 1879.—W. H. White, special deputy collector, Union County.
ry, 1879.— ——— Childers, guide, Union County.

istrict of Tennessee:

, 1878.—J. B. Snyder, deputy collector, Blount County.
1879.—William Lindsay, deputy collector, Monroe County.

trict of Tennessee:

, 1878.—J. M. Phillips, deputy collector, Putnam County.
, 1878.—Chas. E. Trippins, Putnam County.
, 1878.—J. B. Smith, guide, Putnam County.
ber, 1880.—James M. Campbell, guide, Putnam County.
ber, 1880.—J. M. Davis, deputy collector, Putnam County.
1881.—J. M. Phillips, deputy collector, Mercer County.

trict of Virginia:

1878.—Two guides assisting deputy collector in Franklin County, names not

878.—John Biant, guide, Scott County.

rict of West Virginia:

, 1877.—Lamberton Doolittle, deputy collector, Summers County.

lowing-named persons are reported assaulted and wounded by violators of
revenue law for having given information of violations of law to officers, and
them in the performance of their duties:

istrict of Georgia:

house, and severely wounded. Maroney was accused of having given infor against illicit distillers.

———, 1880.—John Rhodes, who had given information in regard to illi tilleries in Union County, was attacked and seriously wounded.

Second District of Tennessee:

October, 1877.—H. Rains was shot and thought to be mortally wounded Ray, for the reason that he had given information of violation of internal-r law, which led to the arrest of Ray.

Summary of officers and employés of Internal Revenue Bureau killed, reported wounded, and assaulted from June, 1875, to February 6, 1882.

	Killed.	Reported killed.	Wounded.	Assaulted.
Deputy collectors	4		21	
Special deputy collectors			2	
Deputy marshals	7		8	
Employés	1	17	19	7
Total	12	17	50	7

The following from the general superintendent of the Railwa Service is so full and exhaustive upon the subject of casualties i service, that your committee deem it proper to embody the stat in this report as a part of the same.

POST-OFFICE DEPARTMENT,
OFFICE OF THE GENERAL SUPERINTENDENT OF RAILWAY MAIL SERVICE
Washington, D. C., February 14,

SIR: In reply to your communication of this date, I have the honor to transm with a statement compiled from the annual reports of the Postmaster-Genera casualties in the Railway Mail Service from the year 1876 to the close of the fis 1881, which resulted in the death or injury of employés of this service.

Very respectfully,

W. B. THOMPSON
General Superinte

Hon. R. M. A. HAWK,
House of Representatives, Washington, D. C.

Statistics in support of House bills providing for pensions to the families of employ Railway Mail Service killed by accidents while on duty, and for the payment of ployés disabled in accidents during the time of their disability.

Prior to 1874 no report is extant of the General Superintendent of Railw Service. That year Col. George S. Bangs, General Superintendent Railway Ma ice, addressed a report to the Second Assistant Postmaster-General, which is fou pages 206–212 of the appendix of the Report of the Postmaster-General for 187

No mention is made, however, in this report of the accidents which had o during that year.

No report was published for the year 1875.

Upon page 166 of the appendix to the Report of the Postmaster-General f forming a portion of the report of Theodore N. Vail, General Superintendent I Mail Service, to the Second Assistant Postmaster-General, and incidentally me in connection with recommendations for a better method of lighting the post it is stated that, in addition to the saving of expense by the measures recom "another and very important object would be the lessening of risk to postal c case of accident, as during the past two years two postal clerks have been bu death in wrecks where the oil used in the lamps ignited and spread the fire rescue was impossible. In one instance the clerk wouldhave escaped with h bruise, but, being so wedged in that he could not extricate himself, the hea burning wreck rendered aid impossible."

From 1877 until the present time regular annual reports have been mad General Superintendent of the Railway Mail Service. A table of the casualtie have happened to cars or to employés of the Railway Mail Service is appended of the reports. From this table the following instances of injuries to employé service are selected:

1876.

.—Mail train collided with a freight-train near Manassas, on the Virginia Railroad, and Route-Agent John C. Clark received severe injuries about the arms, which incapacitated him for duty for about three weeks.
22.—Jacob Roos, head clerk, Chicago and Cincinnati railway post-office, ssing through train, slipped and fell under the cars, two of which passed eft arm, rendering amputation necessary; he also had two ribs broken, and :wise internally injured.
28.—Mail train on Cairo and New Orleans Railroad ran into a washed culvert galoo, wrecking mail and baggage cars, and two coaches. Mail car thrown bankment, and W. T. Tinkle, head clerk, slightly injured. Mail matter not :s damaged by water.
er 3.—Mail train between Baltimore and Grafton, when near Harper's Ferry, au into some freight cars which were off the track. The postal car was thrown xpress car, tender, and engine, and into the Chesapeake and Ohio Canal, pletely wrecked. Postal Clerks A. F. Rittenhouse and G. W. Waite were njured. No mail lost.
er 12.—Mail train, New York to Washington, when near Torresdale, Pa., col-h freight train, completely demolishing the postal car, and scattering the g the track about a mile; no mail reported lost. Clem. R. James, chief head s thrown out with great force and received injuries from the effects of which eptember 20 following.
er 12.—Postal car on Danville and Charlotte Railroad ran off the track, and Eddins, route agent, was seriously injured.
er 14.—C. M. Black, postal clerk, Lafayette and Quincy railway post-office, tly injured while catching mails.
er 7.—Accident on the Vicksburgh and Meridian route, caused by a broken which Thomas W. Lindsey, route agent, was slightly injured.
er 20.—Mail train on Kansas City (Mo.) and Denver (Colo.) Railroad, when , Kans., went through the bridge into the dry creek bed below; took fire, and car and contents were entirely destroyed. D. L. Crandell, route-agent, was bruised and burned. The mail lost was twenty-eight registered packages, pouch, letter mail, and four tie-sacks paper mail.
er 22.—Mail train on Pottsville, Tamaqua and Herndon (Pa.) route, near Lo-, Pa., was thrown from track and completely demolished, and, taking fire overturned stove, a portion of the mail was destroyed. Charles Shelley, route ghtly injured.

1877.

y 8.—Vermont Central Railroad, Rutland and Burlington division. Mail rn from the track. J. W. Snow, route agent, seriously injured by stove fall-him.
y 15.—John C. Thomas, postal clerk, New York and Buffalo, in attempting train (while in motion) at Syracuse, N. Y., was thrown under the cars and injuries from the effects of which he died the same night.
y 18.—James N. Murdock, route agent, Richmond and Charlotte Railroad, pping from train on a broken platform, at Richmond, Va., seriously injured .
—Columbus and Athens Railroad. Train wrecked by washing out of culvert, I. H. Minturn, route agent, was seriously injured.
—Thomas Morrow, route agent, Pittsburgh and Altoona, got aboard Cincin-ess at Union depot, Pittsburgh, mistaking it for his own train, and upon dis-his error, when near Birmingham, he jumped from the train while it was in nd received very serious injuries.

[Report of the Postmaster-General for 1878, pages 239-241.]

1877.

10.—Bangor and Boston railway post-office collided with freight cars on side Seabrook, N. H., caused by misplaced switch. Head Clerk Wilbur F. Craw-usly injured. No mail damaged.
er 21.—New York Central and Hudson River Railroad. Chicago express col-h freight train near Rome, N. Y. Both engines, mail and baggage cars com-recked. Head Clerk John S. Tunnard and a fireman and brakeman killed, and erks Frank C. Roberts, George W. Fitch, William E. Earle, and William eet seriously injured, as also were many railroad employés and passengers. the registered matter was badly mutilated, but no mail known to be lost.

September 27.—Chicago and Lake Huron Railroad, Port Huron and Valparaiso route. Near Vicksburgh, Mich., mail car and two coaches jumped the track and ran into embankment and were completely wrecked. Route Agent J. J. Larmour slightly bruised, but no mail lost or injured.

September 28.—Piedmont Air Line Railroad, Danville and Charlotte route. Route agent John A. Palmer, while in the act of catching and delivering mail at Linwood Station, had his leg very seriously injured by coming in contact with a piece of iron attached to the crane.

1878.

February 4.—Saint Louis, Kansas City and Northern Railroad. Jacob Sands, route agent between Ottumwa and Moberly, had his hand badly injured by the sudden closing of the car door.

February 25.—Pittsburgh and Chicago railway post-office. In making the catch from train at East Palatine, Mr. Jos. F. Talcott, postal clerk, was very seriously injured by being struck by a large wooden box of registered matter, which had been placed in tie-sack by the postmaster.

February 27.—New York and Chicago railway post-office. Near Weedsport, N. Y., ran into freight train, ditching engine, postal and baggage cars. Postal Clerks W. H. Atwell and F. L. Southwick considerably injured. No loss or damage to mails.

June 1.—Louisville and Nashville railway post-office. Trains Nos. 1 and 4 collided near Sonora, Ky. Both engines, both postal cars, and one baggage-car entirely wrecked, and several coaches badly damaged. Two persons killed and several wounded. Among the latter were Postal Clerks S. A. McKenzie (who has since died from his injuries), J. K. Hoskins, Clay Newland, E. E. Winters, and Route Agent S. St. John. Much of the mail was badly damaged by water and steam, but none supposed to be lost.

June 24.—Atlantic and Gulf Railroad. Train between Savannah and Live Oak, Fla., was run into by an extra freight train. Baggage-car demolished and Route Agent C. P. Croft slightly injured. No loss or damage to mails.

June 29.—New York and Washington railway post-office. Cross-ties placed on track near Wilmington, throwing engine from track and badly damaging the postal car. Postal Clerk R. G. Whiting severely cut. No loss or damage to the mails.

[Report of the Postmaster-General for 1879, pp. 238-241.]

August 7.—Pittsburgh, Cincinnati and Saint Louis railway post-office. Train No. 6, due to leave Pittsburgh at 11.25 p. m., left that point about thirty minutes late. When near Mingo Junction, at 2 o'clock in the morning, ran into an east-bound freight train, which was running on the time of the passenger train. Eleven persons were killed, and between twenty-five and thirty injured. There were two postal cars on the train, one for Cincinnati and one for Saint Louis, the Cincinnati car being ahead of the Saint Louis car. There were four men in the Cincinnati car, and three men in the Saint Louis car. Of the four men in the Cincinnati car three were killed, viz: F. D. Graham, head clerk; A. W. Andrews, assistant local agent, and W. H. Johnson, assistant Clerk; and George L. Moreau, clerk, was so badly injured that he was unable to perform duty for four months. The clerks in the Saint Louis car were quite seriously injured, and two of them were unable for duty for some days. The Cincinnati postal car was a complete wreck, and was afterwards burned up. Nearly all the mail was saved, except such as was ground up in the wreck.

September 30.—Louisville and Nashville railway post-office. Train No 3 on this line with postal car attached, was thrown from the track at Smith's Grove, Ky., by a misplaced switch, and badly wrecked. Mr. R. A. Murray, clerk railway post-office, had his leg broken in the accident. None of the other clerks were seriously injured. The postal car was considerably damaged, but the damage to the mail was only trifling.

November 15.—Portland and Ogdensburgh Railroad, Portland and Swanton route. The train on this route, when near South Malden, Vt., was thrown from the track (by a broken rail) down an embankment, the mail-car turning upside down. Route Agent F. A. Leland was severely injured. No mail, however, was lost.

November 27.—New York and Hornellsville railway post-office. An accident occurred to train No. 1 on this line, about one and a half miles east of Hornellsville, caused by a misplaced switch, throwing the mail-car down an embankment some twenty-five feet and totally wrecking the same. Head Clerk Ira Dorrance, and Clerk R. S. Bartlett escaped with severe bruises, and Assistant Clerk B. S. Sweet escaped through the roof without injury. The mails, all being locked, were got out in good order and forwarded to their respective destinations.

December 3.—New York, New Haven and Hartford Railroad, Boston, Springfield, and New York railway post-office. In catching the mail at Stratford, Conn., William H. Sanders, assistant clerk, had his hand thrust through the glass of a swinging door, cutting it severely.

9.—Saint Louis and Southeastern Railroad. The mail train bound east te was ditched near Belleville, Ill. No mail was lost or injured in the ac- ; Route Agent W. D. Slade was somewhat injured in the accident.

1879.

6.—Savannah and Jacksonville route. Train from the east on this route e track one mile west of Reppard's Mill, owing to a broken axle. Five cars rn from the track. The ends of the mail and express cars were torn off, but as not injured.

3.—Rochester and Niagara Falls. Mail train on this route, moving west, Spencerport, N. Y., with a freight train; the tender and postal car No. 4 , and were thrown down an embankment twenty feet deep, completely he mail-car, which took fire and was partially burned. Route Agent C. E. ped with slight bruises. No mail or post-office property was destroyed.

18—Selma, Rome and Dalton Railroad. The north-bound mail train on ell through a bridge at Mulberry Creek, 13 miles north of Selma, killing and number of persons, and burning mail-car and entire mail. Route Agent N. in charge of the mail, was badly hurt and burned by coming in contact tove in the mail-car, which broke loose from its fastenings and fell upon which injuries he died on March 3, 1879.

24.—Atchison, Topeka and Santa Fe. While mail-car on this road was ched into the yard at Topeka, Kans., it came in contact with another car force as to throw J. L. Daugherty, mail-route messenger, who was on duty, nder the table of the mail-car, thereby causing him to be incapacited for veral days.

3.—Hastings and Montevideo route. Mail train No. 2 bound east on this wrecked at or near Bongard, Minn., and route agent T. D. Strait was bruised. No mail was lost.

-Central Railroad of New Jersey. Train on this road collided with a freight sbury, N. J., wrecking mail-car and injuring Route Agent George Mallison extent as to unfit him for duty for some days. No damage was sustained ls, which were promptly forwarded.

—Lake Shore and Michigan Southern Railroad. New York and Chicago rail- office train No. 21, when near Berea, Ohio, left the track, ditching postal nors Brough and Andrews, both of which were more or less damaged, the Brough being thrown over on its side. Mails were all secured and trans- sing no delay except to Toledo and Wabash connections. Assistant Clerk es received slight injuries in left arm, and Clerks A. W. Crane, James Bald- Austin, and F. H. Marion were somewhat bruised.

-Grand Rapids and Elkhart. W. D. Ballow, route agent on this route, on in attempting to deliver the mail at Dorr Station while train was in motion, ie car door, receiving slight scalp and bodily bruises. A fainting fit, caused y to a finger received in stamping letters, was the cause of his falling.

-Indianapolis and Terre Haute. Train No. 8, on this route, bound west, les west of Fillmore, Ind., encountered a storm of wind and rain, which e across the track, into which the train ran, doing considerable damage, ng Route Agent John A. Bryan forward on the edge of the letter-case table, m very badly, incapacitating him from duty for nearly three weeks.

[Report of the Postmaster-General for 1880, pp. 285–289.]

1879.

-Lynchburg and Bristol railway post-office, Virginia and Tennessee Rail- ortion of train No. 4 (bound east) fell through the bridge at Reed Creek, eville, a distance of eighty or ninety feet, the engine going first, followed thern express and postal cars. The baggage and second-class coach jumped nd fell to the left of the preceding cars. The remainder of the train, con- our coaches and one sleeper, were saved through the timely application of kes. The express-car was completely demolished and in its destruction the ssenger met with death. One of the inmates of the second-class coach, a lled, and five or six other passengers received cuts and bruises. G. H. ead clerk railway post-office, received a scalp wound of considerable length th and depth sufficient to expose the skull. He also received many bruises ace, forehead, lips, and nose, the left arm and leg.

lerk H. C. Brightwell had two ribs broken, loins, right arm, and both legs breast bruised, and fingers of one hand mashed. The mails, including registered matter, were gathered without loss and forwarded to destina-

tion. This casualty should have appeared in the report of the last fiscal year, but it did not do so on account of its details not reaching this office in time for publication.

September 17.—Baltimore and Grafton railway post-office. Train No. 5 (bound east), at 8 o'clock p. m., when at Silver Spring Station, on Metropolitan Branch Baltimore and Ohio Railroad, about 7 miles west of Washington, D. C., was thrown from the track, owing to a misplaced switch. The postal car was thrown off its trucks and turned on its side. Of the employés of this service on duty (Messrs. C. H. Hooton, W. H. Wright, and F. McC. Parker), Mr. Wright only was injured, his right hand being penetrated by a hook used in the hanging of pouches.

October 11.—Baltimore and Ohio Railroad, Grafton and Chicago railway post-office. Train No. 1 collided with train carrying Grafton and Wheeling agent at Bellton, W. Va., 35 miles east of Wheeling. The postal car (on No. 1) became almost an entire wreck, but the employés of this service on duty therein escaped without injury. The agent's car was badly damaged, and the agent, Mr. George H. Shinn, was considerably injured, although not seriously. The mail was all saved and forwarded.

October 15.—Lake Shore and Michigan Southern Railroad, New York and Chicago railway post-office. Train No. 1 leaving Buffalo at 1 p. m., when at Greenville, about 5 miles east of Cleveland, ran into the rear end of a delayed freight train. Head Clerks Abram Miller and William M. Oliver were badly injured, and Clerks C. W. Jones, B. P. Mapes, and J. W. Van Natta were considerably bruised. The injuries of Mr. Oliver were of such character as to keep him from duty for several weeks, while Mr. Miller will probably never be able to resume his duties on the road on account of the seriousness of wounds received about his hips and thighs. Although the car was about demolished, very little of the mail was destroyed, and the delay thereto caused by the accident was not of great extent.

1880.

January 19.—Savannah and Charleston Railroad, Charleston and Savannah agent. About 3½ miles from Savannah train ran over a mule and was thrown from the track, the engine and baggage-car being precipitated down an embankment. The front end of the postal car was broken up, the trucks destroyed, and the inmates of the car, Messrs. R. E. Mansfield (C. H. C.), W. J. Ballentine, and J. H. Fordham (agents) involved in the ruins of the interior, receiving many cuts and bruises. None of the mails or government property were lost or damaged.

February 13.—Saint Joseph and Des Moines Railroad, Saint Joseph and Albany agents. When about three miles south of King City, the train jumped the track, and the car containing the mail and baggage and express compartments rolled down an embankment and was almost entirely demolished. The agent, Mr. F. Glinger was much bruised and cut about the head, shoulders, and knees, being thereby rendered unable to perform duty for several days. No damage done to the mail.

February 19.—Bellaire and Woodsfield Railroad. While crossing a trestle-work near Bethel Station, the train left the track. Many of the passengers were hurt, and also was Mail-route Messenger Isaac Booth, who was thereby incapacitated for duty during several days. A special engine conveyed the mails to Woodsfield, whence they were afterwards dispatched to their destination.

March 20.—Savannah and Jacksonville route. When 16 miles south of Dupont, Ga., an axle on the second car from the engine broke, and 11 cars, including the mail car, were thrown from the track. All the letters were thrown from their cases in the mail-car to the floor, where many of them became saturated with oil from the broken lamps and caught fire, but none so damaged as to be illegible. Of the employés on duty, Mr. Mansfield was wounded in the foot by a falling scale, and Messrs. Craft and Mills slightly bruised.

April 13.—Pacific (Kansas Division), Kansas City, and Denver route. Train No. 1, nearing Groton, Kans., at 6.45 a. m., ran upon a burned bridge, which gave way and precipitated the engine and mail car into a dry creek 26 feet below. Some damage was caused to the mail by the mixture of letters and lamp fixtures about the car, and the escape of water from the tank. Agent Hoyt suffered some contusions about the head and arm.

April 16.—Peoria and Jacksonville route. Mail train bound north collided with express bound south, near Havana, Ill. Route Agent E. G. Arlington was badly hurt. No damage, and but temporary delay to the mails.

April 20.—Wabash, Saint Louis and Pacific Railroad, Lafayette and Quincy railway post-office. Train bound west, near Danville Junction, Ill., ran into a train of flats crossing the track, and one of the flats was forced through the postal car. Of the employés on duty, acting Head Clerk Q. H. Chapin was caught by the wreck while attempting escape, and thrown about 50 feet, being painfully injured about the arms, hands, and legs. Immediately after the crash the car caught fire, but the flames were quickly extinguished. No government property or paper mail was destroyed. About 50 letters were badly burned, although all of them were not rendered illegible. Reg-

tered package No. 13, Clyde, Ohio, to Staunton, Ill., was almost entirely destroyed. f its contents only a portion of registered bill remained, and that was turned over › the postmaster at Quincy, Ill.

May 9.—Saint Louis, Iron Mountain and Southern Railway. Mail train No. 2 left he track on account of a washout about three miles north of Bismarck. The engine nd tender turned over and the postal car passed over them, then turned on its side, nd was driven, in a much-damaged condition, by the portion of the train behind it, distance of fifty feet into a swollen stream. Of the employés on duty, acting Head 'lerk McCullough was severely bruised by having a leg caught in a paper-rack, and 'as painfully lacerated by the flying particles of window-glass. Assistant Clerk Crise ›ceived a sprain of the neck. The flow of water from the stream into the car reached depth of three feet, thoroughly soaking the mail and preventing its removal until ›ylight, the registered matter alone being accessible so that it could be put in a dry lace. One pouch, containing letter-mail for Saint Louis and connections, was buried nder the wreck and not recovered until three days after.

May 10.—New York Central and Hudson River Railroad, New York and Chicago ›ilway post-office. Train No. 7, leaving New York at 10.30 a. m., ran off the track ; Saint Johnsville, N. Y., by reason of a misplaced switch. Every car of the train ›ffered much damage, the postal car being a total wreck. The employés of the rail›ay mail service on duty were Messrs. G. A. Palmer and W. E. Salisbury; the former nerged from the wreck with a broken rib among his numerous wounds, and the lat›r was removed in an insensible condition, the recipient of bodily injuries of suffi›ent severity to prevent his appearance, as yet, for duty. The mail was delayed but few hours, having sustained no damage.

June 1.—Cleveland and Cincinnati railway post-office night-line, leaving Cleveland t 7.30 p. m., collided with a north-bound freight train near Mount Gilead Station, hio. The postal car was wrecked, the express car being driven nearly through it. Messrs. Bayne, Chappel, and Brierly, of this service, were severely cut and bruised bout their heads and bodies, Mr. Chappel alone being able to remain on duty. No ›ail was destroyed.

July 10.—Green Bay and Winona agent. The engine, tender, and mail car of train ound west were precipitated through a bridge near Independence, Wis., about 4 p. ı. The engineer and fireman were instantly killed. Route Agent Hebard was thrown ›rough the top of the mail car, but miraculously escaped serious injury, being obliged › remain off duty but a week or so. Mr. Hebard succeeded in securing all of the mail, ›cluding the registered matter, and the government property in the car.

August 17.—East Tennessee, Virginia and Georgia Railroad. At night, the eastward-ound train was wrecked near McMillan's Station, Tenn.; the occurrence being due › a washing away of a small bridge. The entire train was thrown from track, and, 'ith the exception of the postal car and one sleeper, badly broken up. One life was ›st, and several persons received severe injuries. While the postal car was much amaged, its inmates, Messrs. Lowery and Phillips, escaped with slight bruises. No ›ail was lost or damaged in the wreck.

[Report of the Postmaster-General for 1881, pp. 340–343.]

May 5, 1880.—Texarkana and Sherman route. Train wrecked near Bagwell Station, ex., in which W. W. Towns, route agent, was injured; mail all saved and forwarded › Sherman post-office. This casualty should have appeared in the report of the last ›cal year, but did not do so on account of its details not reaching this office in time ›r publication.

September 16, 1880.—On account of a misplaced switch at Kalamazoo, Mich., De›oit and Chicago railway post-office, night line, bound east, left the track; locomo›ve, baggage, and postal car badly wrecked; no mail destroyed or lost. H. M. Lee, erk, slightly injured.

September 19, 1880.—W. H. Herbert, route agent between Omaha, Nebr., and Og›en, Utah, was disabled in a collision which occurred at Barton Siding on the Sid›ey and Kearney Division of the Union Pacific Railroad. The east-bound mail train ›llided with freight, which was entering a side track. The mail car telescoped over wo baggage cars and the engine, and stopped bottom side up. Mr. Herbert was ›ught in the bunk with one or two tons of mail on top of him. His arms were badly ›ushed and bruised. All mail and government property were saved, except a few let›rs, which were burned.

September 24, 1880.—Vandalia line train No. 2 collided with freight bound east, bout 1½ miles from Dennison, Ill. There were a letter and a storage car on this train, oth of which were total wrecks. The accident occurred on a trestle. The letter car 'as broken in two, one-half of it falling on one side, and the other half, together with the ›orage car, on the other side. The clerks on duty were B. W. Dillehunt, H. C. Ellis liller, William Lewis, and E. Unverson. Mr. Dillehunt had his leg and thigh broken, nd was otherwise dangerously injured. The other clerks were injured, but none

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1113.

JANE MULLIGAN.

APRIL 21, 1882.—Laid on the table and ordered to be printed.

Mr. DUNNELL, from the Committee on Foreign Affairs, submitted the following

REPORT:

The Committee on Foreign Affairs, having had under consideration the petition of Jane Mulligan, asking compensation for services rendered the Government of the United States by her father, Bernard O'Neill, as bearer of dispatches, make the following report:

The claim is for services claimed to have been rendered the government by the father of the claimant, Bernard O'Neill, as bearer of dispatches in 1842 for the Government of the United States. Your committee do not find that any good grounds exist for such claim, and in support of our report make as a part the following letters from the State Department:

DEPARTMENT OF STATE,
Washington, April 2, 1880.

SIR: I have the honor to acknowledge the receipt of your letter of the 31st ultimo, and of its accompaniment in regard to the employment by this department of the services of Mr. Bernard O'Neill, as bearer of dispatches to France in 1842. In reply, I have to inform you that there is no evidence in this department showing that Mr. O'Neill was ever employed in such service, and further, that at the time when this service was said to have been performed, commissions as bearers of dispatches were very much sought after by persons traveling abroad for pleasure, on account of the social standing which it gave them with representatives of this government abroad.

I inclose herewith a copy of a letter which this department had occasion to address to Mr. Richard McAllister, of this city, on the 22d December, 1877, in relation to this same subject.

Mrs. Mulligan's petition to Congress, which accompanied your letter, is herewith returned.

I have the honor to be, sir, your obedient servant,

WM. M. EVARTS.

The Hon. C. N. NICHOLLS,
of Committee on Foreign Affairs, House of Representatives.

DEPARTMENT OF STATE,
Washington, December 22, 1877.

SIR: I have to acknowledge the receipt of the letter of Mr. Mulligan, addressed to you upon the 17th instant, together with its accompaniments, which have been referred by you to this department, in regard to a claim which he desires to make for compensation said to be due the estate of Mr. Bernard O'Neill for services rendered by him to the government in 1842, as bearer of dispatches to France, and concerning which he had already addressed the department, and had received a reply to the effect that the records of the department do not appear to contain anything on the subject.

In reply I have to inform you that another and very thorough examination has been made of the records of the department, with the same result as previously, viz, no discovery of any information relating to Mr. O'Neill.

In this connection it may be well to inform you that at about the time (1842) when Mr. O'Neill made the journey in question, commissions to carry dispatches were much sought after. Gentlemen of wealth and leisure traveling abroad would obtain them as a mark of personal favor, and in traveling from place to place, upon their production they would receive the recognition and good offices of the various diplomatic and consular officers abroad. No compensation was usually attached to commissions of this kind, and only a passing record kept of them in the department. Of such a character it is believed the one Mr. O'Neill received must have been.

I am, sir, your obedient servant,

F. W. SEWARD,
Acting Secretary.

RICHARD MCALLISTER, Esq.,
1328 *New York Avenue, Washington, D. C.*

In view of the above statements, your committee do not recommend any allowance of compensation for the said services of Bernard O'Neill as asked for by his daughter, Jane Mulligan.

NGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
ssion. } { No. 1114.

LIEF OF CERTAIN CITIZENS OF OREGON, ETC.

1882.—Committed to the Committee of the Whole House and ordered to be printed.

ON, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 5905.]

nittee on Military Affairs, to whom were referred House bills Nos. 937, and 2577, having had the same under consideration, respect-port:

lls are to pay the volunteers who joined or assisted the forces nited States in the State of Oregon, or in the Territory of 'ashington, or Montana, during the war with the Nez Percé n the year 1877, and the war with the Bannock Indians in 1878, services, horses and arms lost, as such volunteers in said wars; ve to all of said volunteers who were wounded or disabled, or irs of all those volunteers who were killed in such service, the the pension laws, in the same manner and to the same extent had been duly mustered into the regular or volunteer forces iited States.

ommittee find that the volunteers in the Territory of Montana ntitled to the relief sought, as the same was granted by an act ess approved March 3, 1881, similar to the bills now under con-1.

these volunteers were not mustered into the regular service of d States Army, they were attached to the command of United oops in the Department of the Columbia, and acted with said endering valuable and faithful services during said wars, under s and immediate command of officers of the Regular Army of d States, as will appear from the accompanying orders, which a part of this report.

second session of the Forty-sixth Congress, the Committee on Affairs of the House, upon a bill similar to the bills now under ation, and relating to the same service, concluded their report s: "The committee, in view of these facts, recommend that unteer soldiers be paid $1 per day, that the sufferers be placed ension rolls, and that the property lost and destroyed in the tates service be paid for." In which your committee substan-icur, and therefore in lieu of said bills Nos. 1910, 1937, and 2577, ck the accompanying bill as a substitute, and recommend its

HEADQUARTERS ——,
Lewiston, Idaho, June 24, 1877.

[ORDERS No. 4.]

Capt. George Hunter, commanding A Company, Columbia County, Wyoming Territory Volunteers (mounted), will proceed with his company to Fort Lapwai, Idaho, and report to Captain Throckmorton, Fourth Artillery, commanding the troops now at Fort Lapwai, Idaho, preparing for field service against the Indians.

WM. F. SPURGIN,
Captain Twenty-first Infantry, Commanding

HEADQUARTERS BATTALION UNITED STATES TROOPS, IN THE FIELD,
Camp at Fort Lapwai, Idaho, June 24, 1877.

[ORDERS No. 3.]

In compliance with letter from the department commander, dated June 24, 187 Capt. George Hunter, with a company of forty-five volunteers, is hereby attached t this command, and Second Lieut. C. C. S. Wood, Twenty-first Infantry, is designated the officer responsible for their subsistence. He will make the necessary requisitio for rations on the acting commissary of subsistence at Fort Lapwai or in the field.

By order of Captain Throckmorton.

C. A. WILLIAMS,
Second Lieutenant Twenty-first Infantry, Adjutan

Official.

C. A. WILLIAMS,
Second Lieutenant Twenty-first Infantry, Adjutan

HEADQUARTERS DEPARTMENT OF THE COLUMBIA,
Camp on Salmon River, near mouth of White Bird Creek, June 29, 18

[FIELD ORDERS No. 20.]

V. Capt. George Hunter, commanding the "Dayton Volunteers," will report his company to Capt. M. P. Miller, Fourth Artillery, for duty.

By command of Brigadier-General Howard.

M. C. WILKINSON,
Aide-de-Cam

Official.

M. C. WILKINSON,
Aide-de-Cam

HEADQUARTERS DEPARTMENT OF THE COLUMBIA,
Camp on Salmon River, near mouth of White Bird Creek, July 1, 187

[FIELD ORDERS No. 22.]

III. Capt. George Hunter, commanding Dayton Volunteers, will, at 6 a. m., m a reconnaissance in the direction of Pittsburgh Landing, examining the coun thoroughly as he proceeds, especially in the direction of Joseph's reported encam ment.

By command of Brigadier-General Howard.

M. C. WILKINSON,
Aide-de-Cam

Official.

ROB. H. FLETCHER,
Assistant Aide-de-Cam

HEADQUARTERS DEPARTMENT OF THE COLUMBIA,
Camp on Trail, near Snake River, I. T., July 4, 187

[FIELD ORDERS No. 23.]

II. Capt. George Hunter, commanding company of Dayton Volunteers, will pro via Rocky Cañon to Cottonwood, I. T., reporting upon his arrival there to the c

manding officer. As soon as his services can be dispensed with, on reaching Lewiston, I. T., Captain Hunter with his company is hereby relieved from duty with this command. The senior officer will command en route to Cottonwood.

By command of Brigadier-General Howard.

M. C. WILKINSON,
Aide-de-Camp.

Official.

M. C. WILKINSON,
Aide-de-Camp.

HEADQUARTERS DEPARTMENT OF THE COLUMBIA,
Camp on Salmon Creek, near mouth of White Bird Creek, June 30, 1877.

[FIELD ORDERS No. 21.]

I. Capt. E. McConville, with his company, "A," Lewiston Volunteers, eighteen (18) men, having reported this day for duty at these headquarters, is hereby ordered to report to Capt. J. G. Trimble, at Slate Creek, I. T., without delay.

By command of Brigadier-General Howard.

M. C. WILKINSON,
Aide-de-Camp.

Official.

M. C. WILKINSON,
Aide-De-Camp.

HEADQUARTERS, LEWISTON, I. T.,
June 28, 1877.

[ORDER No. 5.]

Extract.

III. Capt. Ed. McConville, with his company, "A," Lewiston Volunteers, fifteen (15) men, will report to Maj. E. C. Mason, Twenty-first Infantry, for duty in the field.

WM. F. SPURGIN,
Captain Twenty-first Infantry, Commanding.

HEADQUARTERS DEPARTMENT OF THE COLUMBIA,
Camp on Trail, near Snake River, I. T., July 4, 1877.

[FIELD ORDERS No. 23.]

I. Capt. E. McConville, commanding "A" company of Lewiston Guards, will proceed via Rocky Cañon to Cottonwood, I. T., reporting upon his arrival there to the commanding officers. As soon as his services can be dispensed with, Capt. E. McConville, with his company, will return to Lewiston, I. T., or to general commanding in the field, if they prefer to do so. The senior officer will command en route to Cottonwood.

By command of Brigadier-General Howard.

M. C. WILKINSON,
Aide-de-Camp.

Official.

M. C. WILKINSON,
Aide-De-Camp.

HEADQUARTERS DEPARTMENT OF THE COLUMBIA,
In the field, Camp Ranis, junction of Canoe Encampment and Rocky Cañon Trails, July 4, 1877.

[FIELD ORDERS No. 23.]

III. For the soldierly qualities and the singularly faithful conduct of Capt. E. McConville and his company of Lewiston Volunteers, during the past few days of incessant

duty in the face of wily and dangerous foes, the commanding general of the department hereby expresses his appreciation and sincere thanks.

By command of Brigadier-General Howard.

M. C. WILKINSON,
Aide-de-Camp.

Official.

M. C. WILKINSON,
Aide-De-Camp.

HEADQUARTERS DEPARTMENT OF THE COLUMBIA,
Camp Wall, near Jackson's Bridge, I. T., July 10, 1877.

COLONEL: Your message was received this 5 a. m. Captain Jackson is so far from me, and with a heavy train, that I cannot get him word before he gets to Grangeville, though I sent the wagons for Captain Miller, yet owing to the difficulties of crossing the Salmon, and the intense heat, I did not get him forward for yesterday. Please ask the men to be patient so that I may get sufficient force here to make a clean thing of it.

I wish you simply to hold on if you have food and water, standing on the defensive, and then if I push the Indians across the middle fork that you accompany a force, perhaps the whole of mine, to cross at Kamiah. My information is that the Indians purpose to return and attack Mount Idaho, &c.; that they are now 260 strong, and feel bold enough to give us battle. Therefore I cannot and should not go for them with any uncertain numbers. Every day's delay brings Colonel Green nearer to me and gets my strength united. Had I not come this way, Joseph would have taken the back track in this direction, in my judgment, so be encouraged and keep all the brave men you can, barricading your position if necessary. I hope you have provisions for two days.

Yours truly,

O. O. HOWARD,
Brigadier-General, Commanding.

To Col. E. McCONVILLE,
Commanding volunteer forces.

HEADQUARTERS DEPARTMENT OF THE COLUMBIA,
Camp Williams, left bank south fork of Clearwater, near mouth of Cottonwood, I. T., 8 *p. m., July* 12, 1877.

COLONEL: General Howard wishes me to say to you that if you can harass the treating Indians, he will be much pleased. Is sorry you did not wait for him, as he is now across the river, and very near to your old camp. The general will be at Grangeville to-morrow. Report to him there.

Very respectfully,

M. C. WILKINSON,
Aide-de-Camp.

Col. E. McCONVILLE,
Commanding volunteer forces.

P. S.—Indians, after a severe fight yesterday and to-day, left in utter route; pus them hard.

M. C. W.

HEADQUARTERS DEPARTMENT OF THE COLUMBIA,
In the field, Camp M. P. Miller, Kamiah, I. T., July 18, 1877.

[SPECIAL FIELD ORDERS No. 31.]

9. Col. E. McConville, commanding volunteers, will report with his command to Capt. Marcus P. Miller, Fourth Artillery, commanding artillery and infantry battalions, for orders.

By command of Brigadier-General Howard.

M. C. WILKINSON,
First Lieutenant, Third Infantry, Aide-de-Camp.

Official.

J. A. SLADEN,
Aide-de-Camp.

'H CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1115.

ROBERT PEYSERT.

APRIL 21, 1882.—Laid on the table and ordered to be printed.

[r. LACEY, from the Committee on the Post-Office and Post-Roads, submitted the following

REPORT:

[To accompany bill H. R. 3083.]

Your committee having fully considered this bill (H. R. 3083), do ereby recommend that it do not pass, for reasons set forth in the fol- wing communication, viz:

POST-OFFICE DEPARTMENT,
OFFICE OF THE FIRST ASSISTANT POSTMASTER-GENERAL,
Washington, D. C., April 19, 1882.

SIR: I have the honor to return herewith a bill for the relief of Mr. Robert Peysert, te postmaster at Bethlehem, Pa., with the information that the post-office at Bethle- m, Pa., was assigned to the 3d class, October 1, 1876, and, as required by law, the lowances for rent, fuel, and light were discontinued.

Under the biennial adjustment of 1880, the office again entered the 2d class, and 00 was allowed for rent, and $60 for fuel and light, from October 1, 1880.

It appears, therefore, under the law, that Mr. Peysert's claim is without merit.

Very respectfully,

JAMES H. MARR,
For First Assistant Postmaster-General.

Hon. E. S. LACEY,
House of Representatives, Washington, D. C.

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1116

CHARLES F. PARIS.

APRIL 21, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MATSON, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 4268.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4268), have had the same under consideration, and beg leave to report as follows:

Charles F. Paris was a soldier in the One hundred and twenty-third Regiment of Indiana Volunteers, and, as such, served out his time. His officers and comrades in their testimony speak of him as an excellent soldier, always at the front, and making for himself an excellent record as a patriotic volunteer. His regiment was in the field during the whole time of its service, and was engaged in the principal battles of the western campaigns.

He was, soon after his discharge, stricken with some disease of the lungs, which the examining surgeon of the Pension Department states as his belief was attributable to his Army service. That disease has progressed until he is now, and has been for several years, incapable of performing manual labor. He applied for a pension on the 20th day of January, 1876, and his application has been recently rejected, upon the ground that there is no specific proof of the incurrence of the disease in the military service of the United States. The proof of any affirmative fact is wanting; but upon the other hand the proof of his entire soundness at enlistment, his exposure and service in the Army, and his prostration soon after leaving the service, the absence of any hereditary or other specific cause for his debility, compel the conclusion that it must have resulted from the service. This committee is disposed to give him the benefit of any doubts in the case, in view particularly of his excellent character as a soldier and a citizen, as abundantly testified to, and they recommend that the bill do pass.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1117.

MRS. ELECTA L. BALDWIN.

APRIL 21, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MATSON, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 2104.]

The Committee on Invalid Pensions, to which was referred the bill (H. R. 2104) granting a pension to Electa L. Baldwin, has had the same under consideration, and begs leave to submit the following report:

From the papers before this committee, it appears that Electa L. Baldwin is the legal widow of Charles Baldwin, who was a private in Company B, Seventh Pennsylvania Cavalry. Baldwin, as shown by the record of the War Department, enlisted September 21, 1861, performed active military duty until July 13, 1862, when taken prisoner in action at Murfreesboro, Tenn. He reported at Camp Parole, Maryland, in September, 1862, was forwarded to Cincinnati, Ohio, and on the 21st of November, 1862, admitted to general hospital at Covington, Ky., with distortion of spine, from which hospital he was discharged the service December 15, 1862, on surgeon's certificate of disability, setting forth as disabling cause angular curvature of the dorsal spine, which disease, in the opinion of the surgeon, existed before enlistment in a latent condition. The soldier died September 24, 1865, according to the certificate of the attending physician, of pelvic abscess and tumor on back.

The widow's claim for pension has been rejected by the Pension Office on the ground that the soldier died of disease which originated prior to entering the service. This action seems to have been based simply upon the opinion expressed by the surgeon in the certificate of disability, to the effect that the curvature of the spine existed in a latent condition before enlistment.

There is, in the opinion of this committee, ample proof of the soldier's soundness at time of his enlistment. Neighbors and fellow-soldier's testify that Baldwin was a very stout, healthy man before his enlistment, and particularly free from any disease of the spine. The cause of the disease is not shown as clearly as it probably could be shown by the claimant, had the Pension Office permitted her to overcome the adverse record. She alleges that it was due to a fall from his horse, and a sergeant of the company testifies that the soldier, a few weeks prior to his discharge, was taken with severe pains in back, which resulted in the disability for which he was discharged, and finally caused his death. It also appears in evidence that shortly after discharge soldier's condition became worse. A tumor weighing nearly a pound was cut from the spine about five months after his return from the Army. He was unable

to perform any labor, and suffered greatly until relieved by death on September 24, 1865.

It is evident from the opinion of the medical referee of the Pension Office, on file with the papers, that could it be clearly shown that the soldier was sound at enlistment, that the origin of the fatal disease in service would have to be conceded.

The sworn statements of persons having personal knowledge of the soldier's condition before enlistment, whose credibility is properly established, are, in the opinion of this committee, entitled to more consideration than the statement of a surgeon of a general hospital, who from the very nature of the circumstances could not have had any knowledge of the soldier prior to his admission to the hospital, and therefore is inclined to give to the claimant the benefits of doubt, which necessarily must surround the origin of a disease of an obscure character, by reporting favorably on the bill and asking that it do pass.

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1118.

JAMES E. GOTT.

APRIL 21, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DAWES, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 627.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 627) to increase the pension of James E. Gott, have had the same under consideration, and beg leave to submit the following report:

Gott was a private in Company A, Fourteenth Maine Volunteers, and served from December 7, 1861, to March 4, 1863, when discharged on surgeon's certificate of disability, setting forth that the soldier was suffering from debility caused by long-continued illness and perforation of the cheek, from gangrene and ulceration of the mouth. He was allowed a pension at $8 per month, which rate was increased to $12 from July 16, 1873, and to $18 from December 28, 1876. A further application for increase, filed July 20, 1880, was rejected by the Pension Office upon the statement made by the postmaster of the town in which the pensioner resides, that the pensioner was able to work about one-third of the time.

The medical evidence in the case shows the following disability: Cicatrix extending from left angle of mouth two and one-half inches obliquely upward; left cheek adherent to superior and inferior maxillary bones; anchylosis of lower jaw; very slight lateral motion; vertical motion about one-sixteenth of one inch; can take only liquid food, the use of solid food impossible. He suffers for want of proper nourishment, and is unable to perform any manual labor.

As the Pension Office concedes the disability to be chargeable to scurvy contracted in the service, but accepts the statement of a non-professional, instead of the certificates of the examining surgeons, as to the pensioner's ability to perform manual labor, the judgment of this committee is that little, if any, manual labor can be performed by a person compelled to subsist on liquid food only; they therefore report favorably on the bill and recommend that it do pass.

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1119.

ELIZA J. YARNALL.

APRIL 21, 1882.—Reported adversely, committed to the Committee of the Whole House, and ordered to be printed.

Mr. DAWES, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 4535.]

The Committee on Invalid Pensions, to which was referred the bill (H. R. 4535) granting an increase of pension to Eliza J. Yarnall, has had the same under consideration, and begs leave to submit the following report:

The petitioner is the widow of Mordecai Yarnall, who was appointed professor of mathematics in the Navy in 1839, and served in that capacity until his retirement April 16, 1878. He died at Georgetown, D. C., February 27, 1879. During the last sixteen years of his service he was stationed at the Naval Observatory in Washington. He was a man of very fine scientific attainment. It is said of him:

> Professor Yarnall was a hard working, patient, faithful laborer in that Observatory for about 35 years, working with little vacation, with great constancy (continuing to labor even after his age had retired him), spending large portions of his nights in making observations and of his days in computing, arranging, &c., with that laborious patience and endurance which nothing but a deep love for his work and profession could inspire. The fruit of his star-gazing appears in his catalogue of stars, two editions of which have been published by government. The second edition, revised, enlarged, and prepared for publication after he was placed on the retired list, was the last work of his life, and the first printed copy reached him a few hours after his death. * * * No more faithful labor than his was ever done in that Observatory, or elsewhere.

Professor Yarnall's widow receives the full pension provided by law, $20 per month. She is said to be in "narrow circumstances" and in very bad health.

This case is perhaps as deserving a one of its class as could be found. But, nevertheless, this committee does not see in the case anything not liable to result to the family of any officer in like service. Nothing arises in the case to show that extraordinary hardships or sufferings from war service in any way caused or hastened Professor Yarnall's death. For many years this officer had before him the law as to the rate of pension (since 1862). His compensation for service was three thousand five hundred dollars per annum. The government cannot be held to be in fault for the present narrow circumstances of the widow, and to establish a precedent in that direction would, in the judgment of this committee, be wrong.

Your committee therefore reports adversely on the bill, and asks to be discharged from its further consideration.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1120.

NANCY LEONARD.

APRIL 21, 1882.—Laid on the table and ordered to be printed.

Mr. DAWES, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 5087.]

The Committee on Invalid Pensions, to which was referred the bill (H. R. 5087) restoring to the pension roll the name of Nancy Leonard, has had the same under consideration, and begs leave to submit the following report:

A careful examination of the evidence upon which Mrs. Leonard's name was dropped from the rolls, as well as that filed since in controversion, fails to convince this committee that the action of the department was not proper, or that it should be disturbed by the legislative branch of the government.

The committee therefore reports adversely on the bill, and asks to be discharged from its further consideration.

O

H CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
st Session. } { No. 1121.

LEONHARD WEBER.

APRIL 21, 1882.—Laid on the table and ordered to be printed.

WADSWORTH, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1124.]

Committee on Invalid Pensions, to whom was referred House bill No. 24, having had the same under consideration, would respectfully report:

hat claimant, Leonhard Weber, enlisted July 24, 1861, and was dis-rged August 22, 1864; made his application for pension August 26, 3. The Pension Office, on full examination, rejected the claim. It reopened, reconsidered, and a special investigation of the facts and tory of claimant had, furnishing proof that in May, 1864, he had his k somewhat injured by a horse falling upon him, but the whole evi-ice fails to connect his pension claim with any injury received while the service, and your committee are of the opinion that the decision the Pension Office was correct, upon the facts and proofs, and report k the bill adversely, and ask to be discharged from its further con-leration.

O

ONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 1122.

PHILIP J. WIDTMEYER.

APRIL 21, 1882.—Laid on the table and ordered to be printed.

ADSWORTH, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1168.]

*mmittee on Invalid Pensions, to whom was referred the bill (H. R.
granting a pension to Philip J. Widtmeyer, respectfully report:*

they have had the same under consideration, and find that Philip tmeyer enlisted April 30, 1861, and was discharged October 20,

pplied for pension January 12, 1863. This was rejected Decem- 1863. It was afterwards reopened several times, a large amount mony filed, and finally a special agent reviewed the whole case, ng a large amount of proof taken by him, including the exami- of his wife, relatives, and neighbors, and upon which the Pension reaffirmed several rejections before had. On a review of the whole our committee are satisfied the decision of the Pension Office in se is a just conclusion of the whole matter, and report back the versely, and ask to be discharged from its further consideration.

O

TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1123.

EDWARD FARR.

RIL 21, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

r. WADSWORTH, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1154.]

e Committee on Invalid Pensions, to whom was referred House bill No. 1154, having had the same under consideration, would respectfully report:

The claimant, Edward Farr, enlisted August 6, 1862, in Company E, ne hundred and seventeenth New York Volunteers. He was disarged March 12, 1863.

The claimant's proofs show, by affidavit of his family physician, that is physical condition for several years prior to enlistment had been lways good, requiring no treatment; that he was a strong, able-bodied an, working at all kinds of farm labor, and having no heart disease. hese facts are also testified to by several of his neighbors.

The affidavit of the examining surgeon of the regiment, who examed claimant for muster into the service, shows he was then in "sound ealth and free from any disease or affection of the heart."

The affidavit of the assistant surgeon of the One hundred and sevententh Regiment is that after claimant had been in the service some five six months claimant, "from rapid marches in the performance of his ity as a soldier, and exposure to the wet and cold at time of such arches, and immediately following the same, was taken severely ill, and ith such illness was confined several months in tent at Camp Morris, aryland, and until discharged from service, during which time affiant tended upon the said Farr medically as surgeon aforesaid, and gave m treatment; *that the said illness of the said Farr resulted in an affection his heart*, on account of which he, the said Farr, was discharged from e service." The proofs show, and it is conceded, that claimant has ntinued, since his discharge, affected with this heart disease, and that has destroyed his power to labor. So appears by the certificate of e examining surgeon of the Pension Office.

The assistant surgeon testifying to the facts of the contraction of this sease is now one of the examining surgeons of the Pension Departent, and a man entitled to full credit.

The certificate to the discharge, and upon which this man was disarged, is made by another assistant surgeon, who is not shown to ve had any personal knowledge of claimant prior to enlistment, but o states "he finds him incapable of performing the duties of a soldier,

because of disease of the heart, *which existed to some extent prior to hi enlistment*, but which permanently disqualifies him for the service."

Because of the words "*which existed to some extent prior to his enlis ment*," the Pension Office rejected the claim.

So far as can be discovered in the whole case, these words were i serted in this certificate solely as an opinion by a surgeon not personall acquainted with claimant, but they are construed to outweigh the swo testimony of the surgeon and assistant surgeon of the regiment, the te timony of claimant's family physician and neighbors.

This pension was applied for March 29, 1871.

We then have the testimony of claimant's family physician and neig bors that this disease of the heart did not exist before enlistment; t testimony of his regimental surgeon that it did not exist when he w mustered into the regiment; the testimony of his assistant regimen surgeon as to the hardship of service producing illness resulting "in affection of the heart," "on account of which he was discharged;" th the same has continued and still exists.

There is no evidence whatever to the contrary, except this stateme in the certificate before stated.

This case was fully considered in the Forty-sixth Congress and r ported favorably, and your committee are of the opinion that claima is justly and legally entitled to a pension, and report back said bill a recommend that it do pass.

TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1124.

HUGO EICHHOLTZ.

PRIL 21, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WADSWORTH, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 5820.]

The Committee on Invalid Pensions, to which was referred the bill (H. R. 5820) granting a pension to Hugo Eichholtz, has had the same under consideration, and begs leave to submit the following report:

The Committee on Pensions of the United States Senate has recently given the case a very careful examination, and in its very able report embodied a full history of the several actions on the part of the Pension Office in the original allowance of the claimant's pension, subsequent increases, and final reduction to $24 per month.

Concurring in the conclusions reached by said committee, this committee adopts, as its own, the report of the Senate Pension Committee (No. 371) in words as follows:

The Committee on Pensions, having had under consideration the bill (S. 633) granting a pension to Hugo Eichholtz, which provides for his restoration to $72 per month in lieu of $24, to which he had been reduced and now receives, report:

That the soldier was originally pensioned at $8 per month for gunshot wounds of right thigh and left foot, and his pension was repeatedly increased, until in December, 1874, he was, under the provisions of act of June 18, 1874, granted a pension at $50 per month. (See admitted brief.)

His pension was further increased to $72 under the provisions of act of June 16, 1880, and on the same certificate which granted said increase was reduced to $24 per month.

He appealed from the action of the Pension Office, claiming that the reduction of his pension was made in violation of the requirements of the act of 1880, and contrary to the evidence as to the degree of disability. The decision of the Commissioner was affirmed by the Secretary of the Interior, on the ground that the facts now show that the appellant should never under the law have been granted $50 per month; for, whether he was not at the date of such allowance totally helpless, or, if he was, such helplessness was not permanent. (See letter of Hon. S. J. Kirkwood.)

It is found from an examination of this case that the certificate of disability upon which the soldier was discharged shows that, in consequence of gunshot wounds of the right thigh and left foot, he was totally disabled for military service, and for civil occupation wholly. In 1866 he was examined by an examining surgeon of the Pension Office, who, after minutely describing the nature of his injuries, states that—

"This man requires constant attendance, and presents a pitiable spectacle in the extreme; his disabilities are permanent, and it is not improbable that his injuries will cause his early death."

He was again examined in 1871, the surgeon finding that—

"A missile entered inner and upper part of right thigh, shattering femur, and passing out externally and posteriorly 3 inches below trochanter major. A second ball entered anterior surface of same thigh 4 inches below the first wound. The entire

limb is atrophied, distorted, and shortened fully 5 inches. A ball passed through the left foot, entering on solar surface, and shattered second and third metatarsal bones; the foot is contracted, and he can only rest on its inner edge. There are two cicatrices on right shoulder, apparently from abscesses, and limb can not be fully extended. He requires the services of an attendant constantly."

In 1873 another examining surgeon describes the foregoing injuries, and finds that the motions of the shoulder joint are impaired; that he cannot stand alone, and that he requires the regular aid and attendance of another person.

Subsequent examinations in 1874, 1875, and 1877 show that the same degree of disability then existed, and the reports agree that the soldier's injuries were permanent and total, and that he required the regular aid and attendance of another person.

This evidence appears to have been regarded as satisfactory until after the soldier made his application for pension at $72 per month. He was then notified that evidence was required showing his present physical condition, and that he required and received the attendance of another person.

In compliance with these requirements he filed the affidavit of his family physician, who swears that he has attended the claimant professionally for the past six years: that in his opinion the soldier's lower limbs are more of an incumbrance and less assistance than artificial ones would be; that he has always, since affiant has been his physician, required constant bodily attendance, not only from and to his house, but at home, and expresses the opinion that should he dispense with such attendance, even temporarily, he does so at great peril.

He also files the testimony of thirteen witnesses, who swear positively from their personal, and in some cases daily, observations, that claimant is now and has been for years past a helpless cripple, unable to rise from his bed, dress or undress himself, sit down or rise up without help, and constantly requiring and receiving the regular aid and attendance of another person.

In January, 1881, the board of surgeons of this city examined Eichholtz under minute and special instructions from the Pension Office, and reported his condition in language almost identical with that employed in preceding certificates, except that in their opinion he did not require regular aid and attendance of another person, and that he is not entitled to more than $24 under the law, and upon this report his pension was reduced from $72 to $24 per month.

The evidence is conflicting, but your committee think the equities are largely in favor of the claimant, and recommend that the claimant should have an increase of pension to $50 per month; and, so amended, your committee recommend that the bill do pass.

C

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1125.

EARL S. RATHBUN.

APRIL 21, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. JOYCE, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill S. 891.]

The Committee on Invalid Pensions, to whom was referred the bill (S. 891) granting a pension to Earl S. Rathbun, have carefully examined the report of the Senate Committee on Pensions of this Congress made in this case, and numbered 146, and, concurring in the views expressed by that committee, beg leave to adopt said report as their own, in words as follows:

The Committee on Pensions, to whom was referred the bill (S. 891) granting a pension to Earl S. Rathbun, having carefully examined the same, report as follows:

That a bill was introduced in the Senate (S. 1808) during the second session of the Forty-sixth Congress, granting a pension of eight dollars a month to Earl S. Rathbun. The Committee on Pensions made the following report on the bill:

"*The Committee on Pensions, to whom was referred the bill (S. 1808) granting a pension to Earl S. Rathbun, have examined the same, and report:*

"The claimant enlisted at the outbreak of the late war as a private in Company C, Eighth Missouri Volunteer Infantry. He was then a resident of Saint Louis, following the vocation of a clerk and bookkeeper, and was of robust health. He was an excellent soldier and did good service, having been promoted to orderly sergeant for meritorious conduct. He was engaged in the battle of Shiloh; and in the exposure of severe and forced marches immediately after that battle he contracted rheumatism and disease of the chest. These diseases became chronic, and he became wholly incapable of manual labor, and is now bedridden and without hope of recovery. These facts are proven by the surgeon of his regiment, his family physician in Saint Louis, and several of his comrades. The claimant was discharged from service in October, 1862, but having partially recovered he joined the Mississippi squadron for operations around Vicksburg. There he performed duty as ship-writer, steward, &c., but was all the time delicate and suffering from debility, rheumatism, and his lungs, until he was again compelled to quit the service.

"The Pension Office ignored his rheumatism, debility, and total and permanent incapacity for labor, and allowed him on account only of diseased lungs arrears of pension at the rate of $2 per month, commencing from the date of his discharge in October, 1862, but deducting from the time the period of his service in the Mississippi squadron, and granted him a pension at the rate of $4 per month.

"The claimant appealed from this action of the Commissioner of Pensions to Congress, and claims that his pension should have been at least $8 per month.

"The committee are of opinion that the Commissioner erred in ignoring the chronic rheumatism of the applicant and his incapacity for manual labor, which gradually became total and permanent. The committee therefore recommend that the pension be increased at the rate of $8 per month, as set forth in the bill, and that said bill do pass as amended."

This report passed the Senate, but failed on account of time to become a law.

Your committee have adopted the above report, and recommend the passage of the bill with an amendment.

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1126.

WILLIAM R. PERDUE.

APRIL 21, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. JOYCE, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1468.]

The Committee on Invalid Pensions, to which was re-referred the bill (H. R. 1468) granting a pension to William R. Perdue, has examined and considered new and important evidence recently presented, from which it is evident that the former action of this committee should be reversed, and therefore reports favorably on said bill and asks that it do pass as amended.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1127.

GEORGE TAYLOR.

APRIL 21, 1882.—Laid on the table and ordered to be printed.

Mr. JOYCE, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1542.]

The Committee on Invalid Pensions, to which was referred the bill (H. R. 1542) granting a pension to George Taylor, finds that a pension has been allowed him under the general law, and therefore returns said bill and asks to be discharged from its further consideration.

O

ONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 1128.

ANDREW J. HORTON.

APRIL 21, 1882.—Laid on the table and ordered to be printed.

YCE, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1546.]

Committee on Invalid Pensions, to which was referred the bill (H. 6) granting a pension to Andrew J. Horton, finds that he has been d a pension under the general laws, and therefore returns said bill, ks to be discharged from its further consideration.

ELE, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 3865.]

ommittee on Pensions, to whom was referred bill H. R. 3865, ıe same back as amended.

mmittee find that Niel Nielsson was duly enlisted as an ordinary in the United States naval service on January 22, 1862, and ıntil discharged January 26, 1864, and during said service he ed a disability, as per surgeon's report herewith, marked A, le a part of this report, which brought him within the laws him to draw a half pension.

A.

UNITED STATES NAVAL HOSPITAL,
New York, January 21, 1864.

obedience to your order of the 19th instant, we have examined Niel Niels- ary seamen, late of the United States schooner Henry James, and report isability (adynamia from malarial poison) will be of uncertain duration, and isables him from obtaining his subsistence by manual labor. The origin of ity, and its connection with the performance of his duty, are thus set forth ıospital ticket by B. F. Gibbs, surgeon, U. S. N.: "Niel Nielsson, o. sea., Oct. orway, admitted into naval hospital, Pensacola, Sept. 21, 1863, affected with nit., which he contracted in the Mississippi River. His disease originated in y."

y respectfully, your obedient servants,

THOS. L. SMITH, *Surgeon.*
B. VREELAND, *Surgeon.*

W. WHELAN,
f of Bureau Medicine and Surgery, Washington, D. C.

ommittee further find that said Nielsson was borne upon the rolls venue-cutter Seward as seaman from October 1, 1871, to March and as master-at-arms from March 1 to October 7, 1872, and ing said service he lost an arm by the premature discharge of ive gun, while in the line of duty, as shown by papers herewith.

the direction of his superior officer, his wrist was shattered by the premature discharge of a gun, and that he was immediately thereafter sent to the marine hospital at Wilmington, N. C.

The reply has been delayed with a view to obtain further information as to the extent of the injury, but on reference to the marine hospital records they are found to be meager, and fail to furnish more definite information.

The papers submitted by you are herewith returned.

Very respectfully,

CHAS. J. FOLGER,
Secretary.

Hon. G. W. STEELE,
Chairman Subcommittee on Pensions, House of Representatives.

C.

To the Senate and House of Representatives of the United States of America:

The petition of Neil Nielsson, of the city and county of Philadelphia, State of Pennsylvania, respectfully represents:

That your petitioner is twenty-nine years of age; that in the fall of the year 1871 he shipped for one year by regular enlistment in the revenue service of the United States of America, and was shipped at that time on board the United States revenue-cutter Wm. H. Seward as a seaman, from which post he was promoted to that of master-at-arms; that he dutifully and actively served in that capacity until the 30th day of May, A. D. 1872, when the following described disaster to him occurred: It was "Decoration Day," and they were lying in the port of Wilmington, N. C., and the captain, John Carson, received orders from the United States collector of the port to fire continuous salutes of minute guns. Your petitioner and the boatswain of the cutter were detached by the captain to fire one gun. After the second discharge the boatswain placed his thumb upon the vent, and your petitioner proceeded to ram the charge, when from causes unknown the gun was prematurely discharged, carrying away your petitioner's right hand. He was therefore honorably discharged, and since that time he has found it extremely difficult to support himself, and he has never received any relief from the United States Government, or any of its departments.

There being no provision made in the law by which he may obtain a pension (having been in the revenue service), he therefore prays special relief from your honorable bodies. He is a citizen of the United States, and was so at the time of the above-named accident.

NIEL NIELSSON.

We, the undersigned, citizens of Philadelphia, State of Pennsylvania, members of the Seamen's Friend Society, pastor of the old Eastburn Church, and others, do hereby certify that Neil Nielsson, whose petition for relief as indorsed herewith, is a sober, honest, and industrious citizen, is poor and deserving of the aid for which he prays; that his statement accompanying this is true, and we pray of you a favorable consideration of the said petition.

HENRY D. SHERRERD,
President Pennsylvania Seamen's Friend Society.

A. VINCENT GROUP,
His Pastor.

CHARLES H. T. COLLIS,
City Solicitor, Philadelphia.

LOUIS DOZIER,
341 *Walnut street.*

JAMES POLLOCK,
United States Mint, Philadelphia.

THEODORE CUYLER,
704 *Walnut street, Philadelphia.*

W. S. STORTHY,
HENRY T. BRIGHAM,
CHARLES P. CLARKE,
142 *South Fourth street.*

The subscriber respectfully recommends the petition of Neil Nielson to the favorable consideration of Congress.

JOHN CADWALADER.

D.

[S. 1407.]

IN THE SENATE OF THE UNITED STATES.

January 20, 1873.

Mr. BAYARD asked and, by unanimous consent, obtained leave to bring in the following bill; which was read twice, referred to the Committee on Pensions, and ordered to be printed.

A BILL for the relief of Niel Nielsson.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the name of Niel Nielsson, of Wilmington, Delaware, late master-at-arms on board the United States revenue-cutter Seward, be placed upon the pension-list, at the rate of eight dollars per month, said pension to commence May thirtieth, eighteen hundred and seventy-two.

After duly considering all of the foregoing facts, your committee report the bill back as amended, and recommend that it do pass.

O

ɔNGRESS, } HOUSE OF REPRESENTATIVES. { REPORT.
ession. } { No. 1130.

PRISCILLA DECATUR TWIGGS.

1882.—Committed to the Committee of the Whole House and ordered to be printed.

:ELE, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 5998.]

ɔommittee on Pensions, to whom was referred the petition of ı Decatur Twiggs, widow of the late Major Levi Twiggs, report e back, with the accompanying bill, and recommend its passage. ɔport of this recommendation, your committee call attention to ɔr of the petitioner herewith and made a part of this report, A; also to the official statements B and C, made a part of this

A.

FEBRUARY 27, 1882.

ıoticed a few days ago a resolution had been introduced by Senator Gorman, increase of pension for Mrs. Dulany to $50 a month, upon what grounds I ınt, but imagine I have equally strong claims for asking a similar increase.
the war with Mexico, Major Twiggs and Major Dulany were in the same Major Twiggs being the senior. My husband fell, at the head of his com- the storming of Chapultepec.
ɔommencement of the war with Great Britain, in 1812, Major Twiggs entered e, and was appointed a lieutenant in the Marine Corps; was with my uncle, re Decatur, on board the United States frigate President during the engage- h the British fleet, and whose services are thus mentioned by Commodore n his official letter to the Secretary of the Navy: "Lieutenant Twiggs, of the lisplayed great zeal; his men were well supplied, and their fire incomparable, the enemy continued within musket-range." In 1836–'37, Major Twiggs was ;aged in active service in the Seminole war in Florida.
ne few have stronger claims upon the liberality of the government than I ry male relative having been in the United States service; my grandfather, re Decatur, sr., having been in the French war; his two sons also held com- n our Navy. Commodore Stephen Decatur, jr., distinguished himself by re- and burning the frigate Philadelphia, in the harbor of Tripoli, in which en- his brother, James S. Decatur, was killed. Again during the war with Great ı 1812, he further distinguished himself by capturing the British frigate Mace-

ıer, Captain James McKnight, was in the Marine Corps at the time of his ɔoth my brothers were lieutenants in the Navy; the elder, Lieutenant Ste- ʃcKnight, was with Commodore Porter on board the Essex, and was after- t at sea on board the United States sloop-of-war Wasp. As before stated, my 'ell at the storming of Chapultepec, and my only son, George D. Twiggs, was ın engagement one month previous, he being on his way to join his uncle,). E. Twiggs, as his aid.
hese circumstances I feel I may with justice ask an increase of pension, hav- n the receipt of only $25 a month since my husband's death; and being now hty-first year, it must be quite apparent it can only be required for a very ɔd.
y respectfully, &c.,

PRISCILLA D. TWIGGS,
239 *Maryland Avenue, Baltimore, Md.*

OBERT M. MCLANE.

B.

HEADQUARTERS MARINE CORPS, COMMANDANT'S OFFICE,
Washington, D. C., March 20, 1882.

SIR: In obedience to the department's request, I forward an official statement of the services of Major Levi Twiggs, in the United States Marine Corps, from date of entry to death.

It affords me great pleasure to add my testimony as an eye-witness to his gallant conduct at the moment he was killed, while bravely leading his men to the assault of the works at the base of the Castle of Chapultepec.

I was within a few feet of him at the moment, and witnessed his instantaneous death. He bore the character of a brave and zealous officer, and his services in the war of 1812, and in Florida and Mexico, in my opinion, entitle his widow, not only to an increase of pension as asked, but to arrears for the years since his death. She was deprived in a month of her husband and only son, both killed while bravely fighting for the honor of the flag; and, with the long record of other near relatives in the Navy and Marine Corps, which I know to be correct, she truthfully states that no one has stronger claims upon the liberality of the government than herself, which her exemplary character through life greatly strengthens.

I trust her petition may be granted.

Very respectfully, your obedient servant,

C. G. McCAWLEY,
Colonel Commandant.

Hon. W. H. HUNT,
Secretary of the Navy, Washington, D. C.

C.

HEADQUARTERS MARINE CORPS,
ADJUTANT AND INSPECTOR'S OFFICE,
Washington, D. C., March 21, 1882.

SIR: In reply to the request of the honorable Secretary of the Navy for a full report of the service of the late Major Levi Twiggs, United States Marine Corps, referred by you to me, I have the honor to state as follows:

Major Levi Twiggs was commissioned second lieutenant United States Marine Corps 10th November, 1813; promoted first lieutenant 18th June, 1814; captain by brevet 18th June, 1824; captain, 23d February, 1830; major, 15th November, 1840; killed in battle 13th September, 1847, at storming of Chapultepec, Mexico. He was continuously in service from the date of his first commission to the date of his death, and took part in three wars of the United States. His total sea service was about three years.

In the engagement between the President and the Endymion (war of 1812–'14) Lieut. Levi Twiggs, commanding the marines of the former vessel, particularly distinguished himself. (Aldrich, History United States Marine Corps, p. 58.)

Capt. Levi Twiggs was an officer of the battalion of marines which bore an honorable and highly important part in the battle of Hatchee-Lustee, and participated in arduous campaigns under General Jesup in the Indian war in Florida in 1836–'37, and received from him the highest commendations.

Major Twiggs was selected, to my personal knowledge, to lead the storming party at Chapultepec, Mexico, on account of his well-known gallantry and devotion to duty, and fell in the performance of that duty, in my presence.

Major-General Quitman, United States Volunteers, in his report dated at the National Palace, city of Mexico, September 29, 1847, gives the following account of the work accomplished by the marines, under the lead of Major Twiggs, in that action:

"During the day I succeeded, under cover of our batteries, in making an important reconnaissance of the grounds and works immediately at the base of the castle. The supporting party on this reconnaissance was commanded by the late Major Twiggs, of the marines, and sustained during the observation a brisk fire from the batteries and small arms of the enemy, who, when the party were retiring, came out of the works in large numbers, and, although repeatedly checked by the fire of our troops, continued to advance as the supporting party retired, until they were dispersed with considerable loss by several discharges of canister from the guns of Captain Drum's battery and a well-directed fire from the right of the Second Pennsylvania Regiment, posted on the flank of the battery for its support. During the day my command was re-enforced by a select battalion from General Twiggs's division, intended as a storming party, consisting of thirteen officers and two hundred and fifty men and non-commissioned officers and privates, chosen for this service out of the Rifles, First and Fourt

ts of Artillery, Second, Third, and Seventh Regiments of Infantry, all under
ıand of Capt. Silas Casey, Second Infantry.
ıwn on the morning of the 13th the batteries again opened an active and
fire upon the castle, which was returned by the enemy with spirit and some
ı, disabling for a time the eighteen-pounder in Battery No. 1, and killing one
en at the guns. During this cannonade active preparations were made for
ılt on the castle; ladders, pickaxes, and crows were placed in the hands of a
torming party of select men from the volunteer division, under command of
Reynolds of the Marine Corps, to accompany the storming party of one hun-
twenty men, which had been selected from all corps of the same division and
ıder the command of Major Twiggs of the marines.
ıiving that all the preliminary dispositions were made, Major Gladden with
ıent having passed the wall by breaching it, the New York and Pennsylvania
s having entered over an abandoned battery on their left, and the battalion
es being posted to support the storming parties, I ordered the assault at all

ıtorming parties, led by the gallant officers who had volunteered for this des-
rvice, rushed forward like a resistless tide. The Mexicans behind their bat-
d breastworks stood with more than usual firmness. For a short time the
ras hand to hand; swords and bayonets were crossed and rifles clubbed. Re-
however, was vain against the desperate valor of our brave troops. The
and strong works were carried, and the ascent of Chepultepec on that side
ı to an easy conquest.
ıese works were taken 7 pieces of artillery, 1,000 muskets, and 550 prisoners, of
0 were officers, among them one general and ten colonels. * * *
ıommand of the storming party from the volunteer division devolved on Cap-
ıes Milles, of the Second Pennsylvania Regiment, by the death of its chief, the
d lamented Twiggs, of the Marine Corps, who fell on the first advance at the
ıis command.
ain Roberts, of the rifle regiment, who had led the advance company of the
party at Chepultepec, and had greatly distinguished himself during the pre-
ıy, was detailed by me to plant the star-spangled banner of our country upon
ınal palace. The flag, the first strange banner which had ever waved over
ıce since the conquest of Cortez, was displayed and saluted with enthusiasm
hole command.
palace, already crowded with Mexican thieves and robbers, was placed in
f Lieutenant-Colonel Watson, with his battalion of marines. By his active
ı it was soon cleared and guarded from further spoilation."
ınt Baker is mentioned by the general "as conspicuous for his bravery and
r."
tter of the honorable Secretary and accompanying papers are returned here-

ıry respectfully, your obedient servant,

AUG. S. NICHOLSON,
Major, United States Marine Corps, Adjutant and Inspector.

ılonel Commandant UNITED STATES MARINE CORPS,
Headquarters, Washington, D. C.

committee find that there is a precedent for this in the case of
ow of Maj. Robert Anderson, and perhaps there are others, which,
vith the facts that the petitioner is past eighty-one years of age,
poor, and that few families have done so well in furnishing our
r with defenders—none better—leads your committee to make
able report.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1131.

ROAD TO MOUND CITY, ILL., NATIONAL CEMETERY.

APRIL 24, 1882.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. GEORGE R. DAVIS, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 6004.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 3586) making appropriations to construct a road from Mound City, Ill., to the Mound City National Cemetery, having had the same under consideration, respectfully submit the following report:

This bill provides for the appropriation of $25,000 for the purpose of constructing a road from Mound City, Ill., to the national cemetery near that place; also, for the purchase of a certain quantity of land; also, that the Secretary of War shall report to Congress his action at the next session of Congress.

Your committee find that there is located within one mile of Mound City, Ill., an extensive and very beautiful national cemetery; that it has been improved by the national government, equally with other national cemeteries; is protected by an extensive dike, built to keep out the backwater of the Ohio River; the grounds have been tastefully arranged and ornamented with choice trees and plants; each grave is marked by a white marble slab, and a handsome soldiers' monument has been erected by the State of Illinois, at a cost of $25,000.

The Inspector-General of the Army reported, when officially visiting this place, a few years since, "that the most attractive locality in this vicinity is our beautiful national cemetery.

The length of the contemplated road is about one mile, and its probable cost of construction, as estimated by the Quartermaster-General, would be about $25,000.

The present means of communication with Mound City is at all times disagreeable and difficult, often impassable on account of high water and the great depth of mud into which the road is converted by rains and overflow, the land being very low.

There has been so much pains taken to keep the national cemeteries in the best possible condition, they become more attractive and more beautiful each year, and the interest in them appears also to increase, and every attempt to popularize them would seem to accord well with the spirit and sentiment which have prompted the establishment of these national burial grounds for the honored dead of our late war.

The Congress has heretofore taken this view of the subject in appropriating moneys for similar roadways to the cemeteries at Vicksburg, Chattanooga, and Fort Scott. In consultation with the Quartermaster-

General of the department charged with the care and improvement of the national cemeteries, he has suggested that the right of way shall be secured free of cost to the government, by the local authorities, at least 100 feet wide, and he also suggests other modifications of the bill which the committee approve and adopt.

Your committee therefore report back bill H. R. 3586, with the accompanying bill as a substitute, with recommendation that the substitute do pass.

Substitute for bill H. R. 3586.

A BILL to construct a road from Mound City, Ill., to the Mound City National Military Cemetery.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a sum not to exceed twenty-five thousand dollars, or so much thereof as may be necessary, be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated, for the purpose of constructing a road from Mound City, Ill., to the Mound City National Military Cemetery, to be expended under the Secretary of War: *Provided,* The land necessary for the right of way, not less than one hundred feet in width, shall be granted and ceded to the United States.

TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1132.

BOUNTIES TO FARRAGUT'S FLEET.

APRIL 26, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DEZENDORF, from the Committee on Naval Affairs, submitted the following

REPORT:

[To accompany bill H. R. 4738.]

The Committee on Naval Affairs, to whom was referred bill H. R. 4738, o provide for payment of bounties due to the officers and sailors of the Jnited States vessels under command of Flag-officer D. G. Farragut, eg leave to report the same back, with the recommendation that the ame do pass.

In recommending the passage of this bill, your committee beg leave o call the attention of the House to the letter of the honorable Fourth uditor of the Treasury, as giving a full explanation of the whole mat-er, and establishing the fact, in the opinion of your committee, that the m mentioned in the bill is justly due to these officers and sailors, and sk that the said letter may be printed as a part of this report.

TREASURY DEPARTMENT, FOURTH AUDITOR'S OFFICE,
April 24, 1882.

on. J. F. DEZENDORF, M. C., *House of Representatives:*

SIR: In compliance with your request of the 22d instant, I give below the facts in lation to the "bounty for the destruction of enemies' vessels" now remaining un-id in the case referred to.

By a decree of the supreme court of the District of Columbia, dated May 1, 1873, the m of $268,600 was awarded as "bounty for the destruction of enemies' vessels" to e officers and crews of ships named in the decree. At the date of the award there s to the credit of the appropriation "bounty, &c.," only the sum of $124,955.53, of hich $31,090.33 was paid as costs under the decree of said court of June 9, 1873, leav-g available for distribution the sum of $93,865.20, which sum has been distributed o rata, and the appropriation is now exhausted.

The amount now due the captors under the decree is therefore $143,644.47.

The bill H. R. 4738 is, in form, in my opinion, preferable to the others inclosed by ou, and is sufficient to provide for the payment after the manner of paying prize-oney under the laws now in force.

Very respectfully,

CHARLES BEARDSLEY,
Auditor.

O

7TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1133.

ELECTRIC LIGHTS AT HELL GATE, NEW YORK.

PRIL 27, 1882.—Referred to the Committee on Appropriations and ordered to be printed.

Ir. D. P. RICHARDSON, from the Committee on Commerce, submitted the following

REPORT:

[To accompany bill H. R. 2407.]

The Committee on Commerce, to whom was referred the bill (H. R. 2407) making an appropriation for the establishment of one or more electric lights at Hell Gate, New York, have carefully considered the same, and submit the following report:

The advantages which would accrue to commerce from the establishment of an electric light at Hell Gate are obvious. A greater tonnage passes through this dangerous thoroughfare yearly than leaves our shores for Europe. Its navigation is largely increasing by reason of the abolition of compulsory pilotage, and the removal of some of its dangers by the government work in the charge of General Newton. The size of vessels navigating these waters is larger than formerly. It is estimated that from 80,000 to 100,000 vessels pass through this channel every year. A table is herewith appended showing the tonnage passing through Hell Gate as reported by the marine agent of the New York Herald. This list shows the vessels recorded during certain hours of the day, but does not include the regular sound passenger steamers, excursion steamers, tow-boats with their barges, fishermen, oystermen, small market packets, and yachts constantly passing through the Gate.

The electric light has been so perfected that there is no longer any question about its superiority over other methods of illumination. The Light-House Board, for the last five years, have asked Congress for an appropriation to enable skilled engineers to make experiments with the electric light. The improvements and advances made in the appliances for this method of illumination have settled the question of its efficiency. There can be no better place to adapt it to our light-house service than at Hell Gate. The proposition is eminently practical. We can, by the means suggested, make this important and crowded water-way safe at all hours of the night. At present, sailing vessels approaching the Gate at night are compelled to anchor until morning; and in consequence of this, at daybreak, when the large Sound steamers come into the harbor, the channel is filled with sailing craft, and the dangers of collision accordingly increased. The electric light at Hell Gate will avoid this blockade, with its risks. It will enable the Sound steamers bound eastward to leave New York at six o'clock in the winter, as they do in summer, thereby saving from one to two hours. When established, many vessels will take the Sound instead of the outside route. There will be a saving of time and a lessening of danger. The increasing size of the Sound steamers, and the multitude of passengers carried by them, and the rapid increase in the number of vessels, especially of the larger class, render it necessary that Hell Gate be made as safe by night as by day.

It is proposed to erect two skeleton iron towers, from 150 to 200 fee height; one on Hallett's Point, and one on Negro Head, on Ward Isla or at such places as the Light-House Board may determine. On e tower will be ten lights, the cost of which for carbons consumed wo be 20 cents per hour for each set of ten lights. One 20 horse-po engine will furnish all needed power for both towers. One engineer superintend the machinery, and one man would be sufficient to care the lamps. Each tower will have a twenty thousand candle power, the full power can be centered at the most difficult and danger part of the navigation, without affecting the vision of helmsmen o sailors.

Estimates made by the Light-House Board place the cost of tow and all the necessary machinery constructed in duplicate—so that in c of accident to one machine the other may be available—at the sum $20,000.

Your committee believe the improvement to be desirable and pra cable; and they report back the bill to the House, and ask that it referred to the Committee on Appropriations with a favorable rec mendation.

Tonnage reported passing through Hell Gate in 1881.

The following tables show the number and class of vessels passing through Gate for the year 1881, which have been reported by the marine agent of the York Herald stationed at Whitestone, Long Island. As we understand the boar service at this point, the news boats begin their duties about daybreak and fi them between seven and nine o'clock in the evening, according to the season of year; and, as a consequence, very many vessels pass the boarding station, especi on moonlight and clear nights, which are not reported; hence it is fair to estim that from 18 to 25 per cent. in addition to this list would be approximately corr Of course these figures do not include the steamboats of any class, nor the tow-bo yachts, fishermen, oystermen, and boats in tow which go through the Gate annu

BOUND SOUTH.

	Steamers.	Ships.	Barks.	Brigs.	Schooners.	Sloo
January	91	.....	4	3	112	
February	128	.....	5	1	145	
March	93	1	5	1	628	
April	71	3	1	3	720	
May	57	1	4	6	514	
June	51	.....	6	4	747	
July	98	.....	4	4	261	
August	92	2	1	9	252	
September	49	1	4	9	879	
October	112	1	15	5	236	
November	60	.....	2	4	685	
December	64	1	4	2	630	
Total	955	10	59	51	5,812	

BOUND EAST.

January	100	3	7	5	124	
February	102	5	3	2	200	
March	130	2	.....	4	700	
April	100	.....	6	3	300	
May	82	3	2	4	603	
June	65	3	4	6	500	
July	68	2	1	7	300	
August	120	.....	6	5	450	
September	119	.....	3	4	200	
October	111	.....	3	2	400	
November	98	.....	3	6	300	
December	100	2	6	8	400	
Total	1,195	20	44	56	4,577	

›uring the year 1880 the records at the Whitestone station were only kept for ves- ›bound southward. There were 584 steamers reported, against 956 in 1881; 7 ships, ›inst 10 this year; 49 barks, against 59 this year; 56 brigs, against 51 this year; 56 scooners in 1880, against 5,812 this year. It will be seen from this statement ›t during the year 1881 there have been 372 *more steamers* passing through Hell Gate, ›nd southward, than there was in 1880, 3 more ships, 10 more barks, 3 more brigs, than 1880, while there were 1,544 less schooners. This is due probably to the fact that ›se schooners, having taken a fair wind and being in ballast and bound for coal ›ts, notably Philadelphia and Baltimore, have gone the outside route, but, when ›en, returned through Hell Gate, especially in the stormy months, as the passage ›ough Long Island Sound is much less risky on a deep-laden vessel; besides, if the ›th-bound vessels could not reach the Gate in time to go through by daylight, they ›uld be obliged to anchor between City Island and Flushing Bay. The adoption of › electric light at Hell Gate would tend to swell the amount of tonnage using Long and Sound.

TREASURY DEPARTMENT,
OFFICE OF THE LIGHT-HOUSE BOARD,
Washington, April 21, 1882.

DEAR SIR: Referring to your oral request of this morning for information as to the ›visability of providing for the establishment of one or more electric lights at Hell ›te, N. Y., as proposed by bill H. R. 2407, I beg to say that the matter of lighting ›ell Gate by electric lights has attracted considerable attention from those who use, ›d who are interested in the use, of this passage.

Should such lights be established all classes of vessels would be enabled to use this ›oroughfare by night as well as by day, and navigation by day would be very much ›lieved.

As it is, scores of vessels anchor off Riker's Island and Whitestone, to await day- ›ht to go through the Gate, and the result is a jam every morning, similar to that ›hich occurred not long since, when no less than 180 sailing vessels went through ›e Gate in the morning, at one tide.

It is the opinion of the Board, and of officers connected with the Light-House Es- ›blishment whose judgment in such matters is entitled to great weight, that the ›tablishment of electric lights, as proposed by the bill under consideration, would be › very great advantage to commerce and navigation.

The sum proposed by the bill to be appropriated, namely $20,000, is believed to be ›fficient.

Very respectfully,

GEORGE DEWEY,
Commander, U. S. N., Naval Secretary.

Hon. D. P. RICHARDSON, M. C.,
House of Representatives, Washington, D. C.

C

7TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1134.

LAND GRANTED WILLAMETTE VALLEY AND CASCADE MOUNTAIN WAGON-ROAD COMPANY.

APRIL 27, 1882.—Laid on the table and ordered to be printed.

Mr. STRAIT, from the Committee on the Public Lands, submitted the following

REPORT:

The Committee on the Public Lands, to whom was referred a communication from the Secretary of the Interior respecting the lands granted to the State of Oregon for the building of the Willamette Valley and Cascade Mountain wagon road, as contained in Ex. Doc. No. 97 to the Forty-seventh Congress, have had the same under consideration, and now herewith submit the following report:

The inhabitants of the State of Oregon, in 1866, deemed it important to the development of the State that there should be constructed a wagon road from the city of Albany, on the west side of the Cascade Mountain range, over said mountains, and through the Willamette Valley, to the eastern boundary of the State of Oregon. Such an enterprise was deemed important, not only as essential to the opening, settlement, and development of the State, but as necessary to the government's communication with, and its military and civil operations, in the interior.

The new State of Oregon and its people were unable, unassisted, to embark in so formidable an undertaking, and therefore, in 1866, applied to Congress for aid in the construction of said road by means of a land-grant. The proposed road was about 448 miles in length, passing over and through the high and difficult Cascade range of mountains. It could only be built, at least about 80 miles of its line, by a large outlay of money. Consequently, the matter being presented to Congress, it passed the following law, which was approved on the 5th day of July, 1866:

CHAP. CLXXIV.—AN ACT granting lands to the State of Oregon to aid in the construction of a military road from Albany, Oregon, to the eastern boundary of the State.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be, and hereby is, granted to the State of Oregon to aid in the construction of a military wagon road from Albany, Oregon, by way of Canyon City and the most feasible pass in Cascade range of mountains to the eastern boundary of the State alternate sections of public lands, designated by odd numbers, three sections per mile, to be selected within six miles of said road: *Provided*, That the lands hereby granted shall be exclusively applied in the construction of said road, and shall be disposed of only as the work progresses; and the same shall be applied to no other purpose whatever: *And provided further*, That any and all lands heretofore reserved to the United States by act of Congress or other competent authority be, and the same are, reserved from the operation of this act, except so far as it may be necessary to locate the route of said road through the same, in which case the right of way is granted, subject to the approval of the President of the United States.

SEC. 2. *And be it further enacted*, That the said lands hereby granted to said State shall be disposed of by the legislature thereof for the purpose aforesaid and for no

other; and the said road shall be and remain a public highway for the use of the Government of the United States, free from tolls or other charge upon the transportation of any property, troops, or mails of the United States.

SEC. 3. *And be it further enacted*, That said roads shall be constructed with such width, graduation, and bridges as to permit of its regular use as a wagon road, and in such other special manner as the State of Oregon may prescribe.

SEC. 4. *And be it further enacted*, That the lands hereby granted to said State shall be disposed of only in the following manner, that is to say: That when ten miles of said road shall be completed, a quantity of land, not exceeding thirty sections for said road, may be sold coterminous to said completed portion of said road; and when the governor of said State shall certify to the Secretary of the Interior that any ten continuous miles of said road are completed, then another quantity of land hereby granted, not to exceed thirty sections, may be sold coterminous to said completed portion of said road, and so from time to time until said road is completed; and if said road is not completed within five years no further sales shall be made, and the land remaining unsold shall revert to the United States.

Approved, July 5, 1866.

It will be seen that, by virtue of the foregoing act, the grant was made to the State of Oregon for the purpose therein mentioned, viz, in aid of the construction of a military wagon road from Albany, in the State of Oregon, &c.; and that the lands thereby granted were to be applied to the construction of said road, and for no other purpose. The third section of the above act seems to imply that the said road was to be constructed under the control and direction of the State of Oregon.

The said grant was for three sections per mile out of the odd-numbered sections, to be selected within six miles of the line of said road so to be constructed.

The act prescribes that the road should be located upon the most feasible pass over said mountains. Section two prescribes that the lands should be disposed of by the legislature of the State of Oregon; and section four prescribes the manner and order of disposition by the State, viz, that the said lands should be disposed of under direction of the State, as the work by ten-mile sections might progress, and designates the governor of Oregon as the umpire, to determine by his certificate the question of completion or non-completion of said work.

There is not now any question as to actual length of said road; by survey it is 448.7 miles; nor as to the quantity of land, three sections per mile. Therefore, the least that can be said about the character of the grant in the above act is that it was executory, and became a grant *in presenti*.

By virtue of the act of October 24, 1866, the legislature of Oregon granted the said lands, with all conditions contained in the aforesaid act of Congress, to the Willamette Valley and Cascade Mountain Wagon Road Company, which said act is as follows:

AN ACT donating certain lands to the Willamette Valley and Cascade Mountain Wagon-Road Company.

Whereas the last session of the Congress of the United States passed a certain act donating land to the State of Oregon, which act is hereby set forth, to wit: "An act granting lands to the State of Oregon, to aid in the construction of a military road from Albany, Oregon, to the eastern boundary of said State."

(Here follows the act of Congress.)

SECTION 1. Be it enacted by the legislative assembly of the State of Oregon, That there is hereby granted to the Willamette Valley and Cascade Mountain Wagon Road Company all lands, right of way, rights, privileges, and immunities heretofore granted or pledged to this State by the act of Congress, in this act heretofore recited, for the purpose of aiding said company in constructing the road mentioned, and described in said act of Congress, upon the conditions and limitations therein prescribed.

SECTION 2. There is also granted and pledged to said company all moneys, lands, rights, privileges, and immunities which may be hereafter granted to this State, to aid in the construction of such road, for the purposes and upon the conditions and limita-

ons mentioned in said act of Congress, or which may be mentioned in any further rants of money or lands to aid in constructing such road.

SECTION 3. Inasmuch as there is no law upon this subject at the present time, this ct shall be in force from and after its passage.

Approved, October 24, 1866.

In pursuance of the act of Congress, Hon. L. F. Grover, governor of he State of Oregon, on the 2d day of October, 1871, issued his certifi-ate under the seal of the State of Oregon, certifying to the completion of said road, as contemplated in, and in compliance with the terms of, the said act of Congress of July 5, 1866. Said certificate is as follows:

THE STATE OF OREGON:

To all to whom these presents shall come, greeting:

Know ye, that by an act of Congress of the United States of America, entitled "An act granting lands to the State of Oregon to aid in the construction of a military road from Albany, Oreg., to the eastern boundary of said State," approved July 5, 1866, and an act amendatory of said act, approved July 15, 1870, the Government of the United States of America granted unto the State of Oregon in aid of the construction of a military wagon-road from the city of Albany, by way of Great Harney Lake Valley, to the eastern boundary of said State, three full sections of land of 640 acres each for each mile of road that should be constructed under the provisions of said grant, the lands to be selected along the line of the road and within a distance of six miles on either side thereof; that the State of Oregon, by an act of its legislature entitled "An act donating lands to the Willamette Valley and Cascade Mountain Wagon-Road Company," approved October 24, 1866, donated and granted unto said Willamette Valley and Cascade Mountain Wagon-Road Company, a body corporate under the laws of Oregon, all the lands granted by the acts of Congress aforesaid and all lands that might be thereafter granted in aid of the construction of said military road; that said company, pursuant to the provisions of said grant, constructed said road from the city of Albany through the Great Harney Lake Valley and to the eastern boundary of the State of Oregon, a distance of 448 miles. And the road so constructed by said company has been duly and formally accepted by the Government of the United States, and by the State of Oregon, and in the manner by said acts of donation and grant prescribed; and the lands along the line of said road, to the extent of 860,000 acres, have, under said donation and grant, passed to and become the absolute property of said Willamette Valley and Cascade Mountain Wagon-Road Company, and are subject to said company's disposal.

In testimony whereof I, L. F. Grover, governor of the State of Oregon, have hereunto set my hand and caused the great seal of State to be affixed.

Done at Salem this second day of October, anno Domini one thousand eight hundred and seventy-one, and of the Independence of the United States the ninety-fifth.

[THE SEAL OF THE STATE OF OREGON.] L. F. GROVER, *Governor.*

Attest:

S. F. CHADWICK,
Secretary of State.

The amount of land ascertained to be included within said grant is 861,440 acres. Under the act of Congress of July 5, 1861, the action of the State of Oregon in relation thereto, and the certification of the governor of Oregon above recited, up to the 19th day of June, 1876, on due selection 107,893 acres had been patented to the said company.

It will be observed that the original act of Congress did not provide for the issuance of patents, nor to whom they should be issued. The grant is clearly to the State of Oregon, but the act is silent as to the patents. To cure this apparent defect in the act of July 5, 1866, and, it would seem, in order to remove all doubt in the mind of the Commissioner of the General Land Office as to his legitimate action in the premises, Congress, on the 18th day of June, 1874, passed the following act:

CHAP. 305.—AN ACT to authorize the issuance of patents for lands granted to the State of Oregon in certain cases.

Whereas certain lands have heretofore, by acts of Congress, been granted to the State of Oregon, to aid in the construction of certain military wagon roads in said

State, and there exists no law providing for the issuing of formal patents for said lands: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in all cases when the roads in aid of the construction of which said lands were granted are shown by the certificate of the governor of the State of Oregon, as in said acts provided, to have been constructed and completed, patents for said lands shall issue in due form to the State of Oregon as fast as the same shall, under said grants, be selected and certified, unless the State of Oregon shall by public act have transferred its interests in said lands to any corporation or corporations, in which case the patents shall issue from the General Land Office to such corporation or corporations upon their payment of the necessary expenses thereof: *Provided*, That this shall not be construed to revive any land grant already expired, nor to create any new rights of any kind except to provide for issuing patents for lands to which the State is already entitled.

Approved June 18, 1874.

Subsequently, from April 10 to August 11, 1879, other lands to the amount of 437,997.70 acres have been selected under the provisions of the foregoing act of July 5, 1866, the patents for which have been withheld, for the reason, it seems, of an allegation made to the Department of the Interior, that the State of Oregon, and the Willamette Valley and Cascade Mountain Wagon-Road Company, had not complied with the terms of the act of July 5, 1866; and, second, the allegation of an attempt on the part of said company to defraud the government out of 1,300 sections of land.

It appears that these allegations were communicated to the Secretary of the Interior by letter under date of March 17, 1878, by one Elisha Barnes, a settler, on account of which the Secretary of the Interior has suspended the issuing of patents for the said unpatented lands. The charges above named involve a question of fact, of the truth or falsity of which the committee do not express any opinion.

The acts of Congress, the act of the legislature of Oregon, and the certification of the governor of the State of Oregon, above recited, clearly show, that *prima facie*, the State of Oregon, or its assignee, according to the act of Congress of June 18, 1874, is entitled to patents for said lands.

Your committee hold that the rights claimed in the premises are based upon former acts of Congress, and the acts and observances of the State of Oregon in pursuance thereof.

Wherefore your committee recommend no legislation by Congress in the premises, and ask to be discharged from further consideration of the matter.

[CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
st Session. } { No. 1135.

ROAD TO ARLINGTON NATIONAL CEMETERY.

.27, 1882.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

GEORGE R. DAVIS, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 6011.]

Committee on Military Affairs, to whom was referred the bill (H. R. 40) to improve the public road to the Arlington National Cemetery, ving had same under consideration, respectfully submit the following ort:

e committee find upon investigation that the road leading from hington to the Arlington National Cemetery is often almost impass- for carriages, and visitors to the capital of the nation frequently it inconvenient on account of the condition of the road to visit this tiful cemetery, of so much interest to all.

e Quartermaster-General, in his annual reports for several years, ırged the necessity to improve this road and make the approach to ıgton easy and convenient.

ɔur committee, for reasons set forth in the following letters from the :termaster-General and from the Secretary of War, and from con- ıtion and investigation, submit the accompanying substitute for the H. R. 3140), and recommend that said substitute do pass.

WAR DEPARTMENT,
QUARTERMASTER-GENERAL'S OFFICE,
Washington, D. C., February 16, 1882.

: I have the honor to return herewith House bill No. 3140, providing for the im- ment of the public road to the Arlington National Cemetery, and to earnestly ımend its passage.

ı Quartermaster-General for several years past has recommended this in his an- reports. In 1880 he stated that "the road from the Georgetown bridge to ɣton forms practically the only approach from Washington to that cemetery, as ıluctance to pass railroad trains on the Long Bridge prevents most strangers from it. It is much to be desired that Congress grant an appropriation for the im- ment of this road, much travelled when practicable, but almost impassable for ɣes. The cemetery is very beautiful. It is an object of general interest to citi- who visit the District, and, while the number of visitors is great, many are pre- d by the bad condition of this road from doing honor to those who lie under the f Arlington."

l again, in 1881: "The subject of improving the road to the Arlington Cemetery, this city, is again referred to in this connection. The desirability of providing ent approach to this beautiful cemetery is obvious on account of its proximity to apital and the consequent large number of visitors. At present the road in places is frequently almost impassable."

The officer in charge of national cemeteries, in his last annual report, stated as follows:

"The roads at these places, viz, Vicksburg, Fort Scott, and Chattanooga, when completed, will afford easy access to the cemeteries, which are much visited. The number of visitors, however, is much less than at the national cemetery at Arlington, near this city, which can be reached only by a very bad, and in winter a dangerous, road. Light vehicles have not infrequently been mired immediately in front of the cemetery, and altogether this journey to a place that cannot fail to be of so much interest to the visitor to the national capital is made only under serious discomfort. In view of the fact that Congress has granted the means to make decent approaches to other national cemeteries of less prominence, I beg to renew the recommendation so often made by my predecessor, Colonel Rockwell, that the same aid be given toward constructing a passable road to the Arlington Cemetery."

Very respectfully, your obedient servant,

S. B. HOLABIRD,
Assistant Quartermaster-General, in charge.

The Hon. the SECRETARY OF WAR.

WAR DEPARTMENT,
Washington City, February 17, 1882.

SIR: I have the honor to acknowledge the receipt of your letter of the 13th instant, inclosing, with request for the views of this department in regard thereto, a copy of bill (H. R. 3140) "to improve the public road to the Arlington National Military Cemetery."

In reply, I beg to state that the subject was referred to the Quartermaster-General of the Army, and to inclose herewith his report, dated the 16th instant, in which he earnestly recommends the passage of the bill, and presents extracts from his annual reports of 1880 and 1881, and one from the latest annual report of the officer in charge of national cemeteries, urging the importance of the construction of a suitable road from the Georgetown bridge to the Arlington Cemetery.

From these extracts it appears that the present road between the points named is frequently almost impassable, and at times even dangerous; so that, notwithstanding its almost immediate proximity to the national capital, it is in a measure isolated therefrom by reason of the condition of its approaches.

The reasons advanced in the accompanying report in favor of the construction of a proper road to the Arlington Cemetery, are, in my judgment, so cogent and conclusive as to render it superfluous to add thereto; yet I beg to invite especial attention to the fact that this cemetery is the largest and perhaps the most prominent national cemetery in the United States, and that, although no provision has been made for a proper road leading thereto, Congress has made provision of that character for other cemeteries of less prominence.

I concur fully in the views of the Quartermaster-General, as expressed in the accompanying paper, and beg to add my own recommendation to his that the above-mentioned bill, No. 3140, be passed by Congress.

Very respectfully, your obedient servant,

ROBERT T. LINCOLN,
Secretary of War.

Hon. GEO. R. DAVIS,
Of the Committee on Military Affairs, House of Representatives.

Substitute for bill H. R. 3140, *from Committee on Military Affairs.*

A BILL to improve the public road from the Aqueduct Bridge, near Georgetown, District of Columbia, to the Arlington National Cemetery.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a sum not to exceed ten thousand (10,000) dollars, or so much thereof as may be necessary, be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated, for the purpose of improving the road from the Aqueduct Bridge, near Georgetown, District of Columbia, to the Arlington National Cemetery, to be expended under the Secretary of War.

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7TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1136.

OAD TO NATIONAL CEMETERY IN HENRICO COUNTY, VIRGINIA.

PRIL 27, 1882.—Committed to the Committee of the Whole House on the state of the Union, and ordered to be printed.

Ir. GEORGE R. DAVIS, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 6012.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 3138), to construct a road from Richmond, Va., to the national cemetery in the county of Henrico, Virginia, having considered same, respectfully submit the following report:

This bill is reported back with the accompanying substitute, which rovides for the appropriation of a sum not exceeding $30,000 for the urpose of constructing a road from Richmond, Va., to the Richmond ational Military Cemetery, to be expended under direction of the Secetary of War, provided that land necessary for the right of way, not ss than 100 feet in width, be granted and ceded to the United States.

The Quartermaster-General has caused a survey to be made of the roposed road, and estimates the total cost of the project to be $30,000.

Citizens to the number of some two hundred petitioned the president nd council of the city of Richmond to properly grade and improve me of the streets leading from the center of the city to the limits, to nnect with the proposed improvement of the road to the national metery, and in conformity therewith the city council, on the 15th of ovember last, adopted the following resolution:

That the council of the city of Richmond concur in the memorial of many citizens ncerning the proposed avenue from this city to the national cemetery on the east of e corporate limits; and that in view of the need of such improvement the council rees to properly grade and improve some streets in the eastern part of the city to nnect at the proper time with said contemplated avenue.
Adopted.

The necessity for the construction of this road, and the desirability of aking this improvement, are so fully set forth in the letter from the ecretary of War, accompanied with report from the Quartermaster-eneral, in response to the inquiry made by the committee, and by the etition to Congress from a large number of the leading business men nd citizens of Henrico County, Virginia, that your committee submit he following letters and petition, and make same part of their report:

WAR DEPARTMENT.
Washington City, February, 20, 1882.

SIR: Referring to your letter of the 13th instant, inclosing bill H. R. 3138, to construct road from the city of Richmond to the national cemetery in the county of Henrico,

in the State of Virginia, for my opinion on the merits of said bill, I have the honor to inclose herewith a report dated the 16th instant, from the Quartermaster-General, and accompanying papers.

I concur in the views of the Quartermaster-General on the subject.

Very respectfully, your obedient servant,

ROBERT T. LINCOLN,
Secretary of War.

Hon. GEORGE R. DAVIS,
of the Committee on Military Affairs, House of Representatives.

WAR DEPARTMENT,
QUARTERMASTER-GENERAL'S OFFICE,
Washington, D. C., February 16, 1882.

SIR: I have the honor to return herewith House bill No. 3138, providing for the construction of a road to the national cemetery at Richmond, Va.

This cemetery is situated in a locality of great historic interest and is much visited, but can be reached now only by a circuitous and uninviting route, often in a very bad condition. If the projected road is built, the city of Richmond has, by resolution of its board of alderman, declared its intention to properly grade and improve certain streets in the eastern part of the city, so as to form a suitable connection with the proposed road, and thereby secure a means of approach in keeping with this beautiful cemetery.

As previously stated by this office, in reference to this matter, the department cannot view with disfavor any reasonable means calculated to popularize these cemeteries, and it is hoped therefore that this bill may pass.

A preliminary survey of the road has already been made, by direction of the Secretary of War, and the estimated cost of the work is $30,000, which is in excess of the amount proposed by the bill, but whatever sum is granted, will, of course, be made to go as far as possible to secure the object desired. A copy of the engineer's report is inclosed herewith.

As there are four United States cemeteries in the county of Henrico, one of which is known as the Richmond National Cemetery, to which it is assumed this measure relates, it is suggested that the bill be amended so as to refer distinctly to the cemetery of that name. It is further suggested that a proviso be added that the necessary right of way shall be granted to the United States.

Very respectfully, your obedient servant,

S. B. HOLABIRD,
Assistant Quartermaster-General, in charge.

The Hon. SECRETARY OF WAR.

RICHMOND, VA., *May* 25, 1881.

SIR: In compliance with your instructions of the 21st instant, I have made a reconnaissance of the proposed road between this city and the Richmond National Cemetery, with a view to ascertain the best line for, and probable cost of, the road. I have been greatly aided in the matter by data obtained at the office of the city engineer, who had made surveys of the country between Richmond and the cemetery and beyond, for the purpose of determining the watershed of the district, and who has personally gone over the ground with me.

The line selected by me begins at the eastern city limit, and will connect with one of the drives of a very pretty park recently laid out, sweeps around the base of Chimborazo Hill, crosses the York River Railroad and Gilliss Creek Valley, and ascends by easy grades, to the plateau on which the cemetery stands; the length of line being about 8,000 feet.

In locating the line permanently modifications in direction, &c., may, and probably will be made, but the line traced on the accompanying map shows the general direction of the proposed road.

It is found that extensive beds of fine gravel exist in the vicinity, which would be much cheaper and equally as serviceable for surfacing the road.

The following is an estimate of the probable cost to build the road:

Earth work, 6,000 cubic yards, at 25 cents	$15,000
Gravel, 10,000 cubic yards, at 75 cents	7,500
Bridge over Gilliss Creek	3,000
Drainage, culverts, &c	4,500
	30,000

e building of the road would certainly be of great benefit to the place, and d probably be the means of drawing a large number of visitors to the cemetery fail to go there now, on account of the length, condition, and unattractiveness e road by which the cemetery is now reached.
aw Mr. Wise, but not Mr. Cowardin, who is not in town.
e papers in relation to this matter are herewith respectfully returned.
Very respectfully, your obedient servant,

JAMES GOLL, JR.,
Civil Engineer, Quartermaster's Department.

n. BENJ. C. CARD,
In charge of National Cemeteries, Washington, D. C.

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ie Senate and House of Representaties of the United States:

ur petitioners, citizens of the county of Henrico and city of Richmond, Va., beg present: That the national burial ground located in said county, east of and nt from said city about one and a quarter miles in a direct line, can only be reached ircuitous routes from said city, greatly increasing the distance to it to visitors, rendering pilgrimages to it on memorial days fatiguing and difficult; that these es are rugged and unprepossessing to strangers who so often seek to visit the said al ground or cemetery in their journey through this portion of the country; that gress having regarded the national cemeteries of so much public interest as to lay out with great neatness and beauty, and to surround them with endearing in- ures, and supply for them excellent keepers' houses and keepers, it follows as a onable deduction that suitable and permanent roadways should be provided at ic expense, communicating with these cemeteries, and connecting them with the s to which they are contiguous and identified; and especially is this applicable ich of them as have been located where the ordinary public highways are, like e herein referred to, defective, obscure, and ineligible, and where the means of esidents contiguous are much too limited to admit of their remedying such defects, d they be devolved on them.

is being the case with regard to the highways to the national cemetery above red to as lying east of the said city, your petitioners beg to represent that a onable outlay of money would serve to build for public comfort and convenience venue or elegant roadway over the short distance referred to, so as to connect ity of Richmond with that cemetery—thus furnishing a permanent and attractive e, creditable to the designs and purposes of such public grounds, as the property ie nation in which Congress has commendably sought to interest the citizens. eiving the great need of such an improvement, your petitioners, or many of them, y applied to the council of the city of Richmond to aid in its construction by at grading and bedding some one of the streets of the city that may be found best ted to a connection with the said improvement, forming a part of the continued to the gates of the cemetery—aid to that extent being as far as the city author- could rightfully go, as it is thought. The council promptly responded to the ap- tion so far as to direct its civil engineer to survey the route best adapted to the t; but time for the work has not yet transpired, or it might be reported to you , according to the specifications and survey of that officer, would be the cost of proposed road. The propriety of Congress establishing the proposed avenue, or ting the necessary means to construct it, would doubtless appear judicious and nt to those members of Congress who have visited the said public burial ground; while, in this enlightened age, so great efforts are made to direct the tastes and vate the minds of the citizens in matters of public grounds and rural ornamenta- it is easy to see how Congress may, without wasting a dollar of the public ns, promote the comfort of many and encourage the object for which these grounds instituted, by an appropriation of the sum required for the work; and to ascer- the amount it would be well, perhaps, that a government officer should be em- ed or directed to make the proper examination into the matter, and report the ssary information in respect to the cost of such an avenue and the adorning of its ers with proper shade trees and evergreens. Trusting it may be the pleasure of gress to grant the prayer of the petitioners, they will ever pray, &c.
gned by two hundred and sixty-nine citizens of Henrico County, Virginia.

Your committee therefore report back the accompanying substitute bill H. R. 3138, and recommend that said substitute do pass.

O

ISATION OF UNITED STATES DISTRICT ATTORNEYS, &c.

882.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

PHREY, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany bill H. R. 6013.]

mmittee on the Judiciary, to whom was referred the bill (H. fix the compensation of United States district attorneys, and purposes, have bestowed considerable labor on same, after btained from the Comptroller of the Treasury the fees and its of all such officers in the United States for the past three l subjoin the same hereto as a part of this report.

rmining the question as to whether fixed salaries should take of fees as compensation for these officers, the committee have guided by the mere economic view of the case, and while they be· eventually it will operate as a saving to the government, yet the t object to be attained is to take away the incentive to the on of a class of cases which your committee believe would never ted if the fee system was abolished; that such prosecutions oppressive to the individual citizen and impose a burden he able to bear, and in the end are dismissed.

gate this evil both the Attorney-General of the United States Commissioner of Internal Revenue, as your committee believe, a fixed salary in lieu of fees as now provided by law, as will H. Ex. Doc. 131, to which your committee would also direct as tending to confirm the views of the committee.

ng that in general the fee system in this class of offices is principle and pernicious in its tendencies, the committee re- accompanying bill as a substitute and recommend its passage.

fees and emoluments earned by United States attorneys during the years ending 79, 1880, and 1881, with the expenses incurred by them as shown by their returns.

trict.	Year ending June 30, 1879.		Year ending June 30, 1880.		Year ending June 30, 1881.	
	Gross earnings.	Office expenses.	Gross earnings.	Office expenses.	Gross earnings.	Office expenses.
thern	$9,047 80	$547 40	*$2,837 00	$411 75	$5,467 20	$1,000 00
thern	2,017 40	.....	2,730 80	.....	3,003 60	.....
.....	907 95	116 80	600 00	.....	834 00	.....
tern	1,896 00	.....	2,482 00	.....	3,102 00	.....
stern	6,778 00	.....	5,282 50	40 60	7,620 00	159 49
.....	7,745 30	2,179 60	8,425 00	2,038 20	5,920 00	1,568 14
.....	1,710 00	.....	856 88	.....	1,395 00	.....

*Alabama, northern: Second half of 1879; return not received.

Abstract of fees and emoluments earned by United States attorneys, &c.—Continued.

District.	Year ending June 30, 1879.		Year ending June 30, 1880.		Year ending June 30, 1881.	
	Gross earnings.	Office expenses.	Gross earnings.	Office expenses.	Gross earnings.	Office expenses.
Columbia*	$13,229 14	$7,229 14	$14,182 71	$8,182 71	$14,034 07	$8,034 07
Connecticut	3,340 09		5,033 81		1,424 80	
Dakota	3,345 30		4,527 50		3,936 80	
Delaware	1,576 00		1,590 00		2,500 00	
Florida, northern	3,579 40		4,668 00		3,290 80	
Florida, southern	702 20		826 51		705 00	
Georgia	7,774 40	1,428 55	5,612 60	1,202 00	6,322 22	1,143 15
Idaho	1,034 66		779 00		788 00	
Illinois, northern	3,535 00		3,195 22		4,985 00	
Illinois, southern	7,144 20		4,366 80	226 50	4,875 20	
Indiana	2,535 80		3,341 60		3,107 99	
Iowa	10,048 00	1,886 25	5,553 00	1,863 05	9,173 00	1,828 25
Kansas	2,407 40		5,128 00		6,201 20	321 75
Kentucky	6,430 00	410 00	4,300 00		6,589 94	300 00
Louisiana	6,150 00	435 30	7,350 00	348 25	6,337 50	706 10
Maine	3,204 18		2,484 60		3,408 40	
Maryland	3,422 50		4,070 00		3,715 00	
Massachusetts	6,683 91	700 23	7,010 00	677 77	6,655 00	572 29
Michigan, eastern	2,988 96		3,012 04		3,724 66	
Michigan, western	3,995 58		3,505 00		3,289 10	
Minnesota	3,940 40		4,573 40		5,129 80	
Missouri, eastern	5,265 00		4,440 00		5,070 00	
Missouri, western	3,371 20		3,537 80		3,881 00	
Mississippi, northern	3,529 90		2,572 20		3,193 80	
Mississippi, southern	1,641 83		1,683 80		2,279 89	
Montana	410 00		1,191 31		759 80	
Nebraska	3,596 45		4,092 01		3,482 00	
Nevada	2,250 00		2,460 00		1,586 00	
New Hampshire	†265 46		1,263 86		750 56	
New Jersey	4,370 00		3,832 50		4,130 00	
New Mexico	1,486 81		1,675 00		1,759 60	
New York, northern	5,782 61	1,175 86	6,502 80	479 96	6,593 66	735 20
New York, southern‡		26,500 00		24,759 90		25,024 00
New York, eastern	2,492 50		3,405 00		3,860 00	
North Carolina, eastern	†2,174 00	115 00	3,872 20	103 75	3,612 00	
North Carolina, western	9,650 00	1,684 15	9,542 00	867 25	6,845 40	943 85
Ohio, northern	5,280 88		3,803 40		2,340 40	
Ohio, southern	4,032 50	16 28	4,309 50		4,103 60	
Oregon	5,543 60		5,153 00		5,813 60	
Pennsylvania, eastern	5,891 00	212 44	5,745 00	239 45	6,075 00	292 98
Pennsylvania, western	3,652 60		2,544 80		3,841 30	
Rhode Island	1,163 00		1,549 15		1,918 00	
South Carolina	7,268 80	1,625 68	9,988 00	635 19	6,271 60	2,777 39
Tennessee, eastern	4,231 10		5,514 47		4,042 00	
Tennessee, middle	9,579 00	294 10	5,553 40	363 30	5,929 20	192 85
Tennessee, western	2,918 60		2,829 60		3,775 60	
Texas, eastern	6,334 20		2,695 62		3,205 66	
Texas, western	4,060 40	410 00	3,883 35		2,024 00	
Texas, northern§			3,938 94	242 10	3,146 50	
Utah	3,770 60	637 00	5,717 90	478 85	3,500 90	225 [illegible]
Vermont	1,118 35		904 80		†654 00	
Virginia, eastern	6,529 00		4,195 80		4,062 40	
Virginia, western	6,278 80	504 70	6,690 40	746 63	4,331 60	382
Washington Territory	3,036 00		2,493 00		3,206 00	
West Virginia	6,318 00	296 85	7,083 30	435 53	6,027 84	325
Wisconsin, eastern	2,341 60		2,274 00		2,950 40	
Wisconsin, western	1,358 40		1,763 00		1,376 40	
Wyoming	1,012 70		962 21		1,614 10	

* District of Columbia: The fees chargeable by the United States attorney for the District of Columbia are always largely in excess of his office expenses and personal compensation. Only enough of the fees to cover the compensation and expenses are given above.

† New Hampshire: Second half of 1878; return not received. North Carolina, eastern: Second half of 1878; return not received. Vermont: Second half of 1880; return not received.

‡ New York, southern: The district attorney for the southern district of New York, receives a salary of $6,000 a year, as prescribed by section 836 of the Revised Statutes. He also receives allowances to the extent of $4,000 a year for services under the provisions of section 827. These amounts are his personal compensation. In addition to them allowances are made for the expenses of his office, including salaries of assistants. The taxable fees earned are applied to the payment of said expenses, but are very far short every quarter.

§ Texas, northern: District not fully organized till June 2, 1879.

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1138.

CERTAIN PAYMENTS FOR MILITARY SERVICES.

APRIL 27, 1882.—Referred to the House Calendar and ordered to be printed.

Mr. BAYNE, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 4618.]

The Committee on Military Affairs, to whom this subject was referred, submit the following report:

In adjusting the accounts of military officers, the Second Comptroller of the Treasury meets the difficulty hereinafter described.

In time of war an officer may be dismissed the service by order of the President. Authority to peremptorily dismiss regular and volunteer officers was specifically given to the President by the act of July 17, 1862.

An officer who has been thus dismissed cannot be restored to the service by a mere revocation of the order by which he was dismissed. He must be reappointed. (97 U. S., 426; 102 *Ib.*, 426; 103 U. S., Blake *vs.* United States.) He must be reappointed and take the oath of office before he can enter upon the duties of his office or be entitled to receive his salary.

As a general rule, then, a person who had ceased to be an officer by reason of dismissal by the President could not be restored until after he had been nominated and confirmed by the Senate, or until he had been reappointed and commissioned by the governor of his State.

In settling these accounts the Second Comptroller finds many cases where officers were dismissed the service through inadvertence when the officer had been guilty of no fault. In such cases the order of dismissal was immediately revoked on discovery of the error or inadvertence. In such cases, officers would generally rely upon the order restoring them to their commands, and did not obtain new commissions from the governors of their States or new appointments from the President. Therefore, while serving under the revocation of their order of dismissal and until they were recommissioned or reappointed they were entitled to no pay, by a strict construction of law. In some cases where officers seek to recover payment for services rendered by them while they were duly commissioned, and about which there is no question, they are informed by the Second Comptroller that the record shows they were for a time paid while serving under a revocation of an order of dismissal, which pay the government is entitled to recover back, and that upon a settlement of their whole account they are still indebted to the government.

This bill simply provides that such payments that have already been made for services actually rendered shall not be invalidated or set aside.

The committee are of the opinion that the bill ought to pass, and recommend its passage.

C

ı CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
st Session. } { No. 1139.

DAMAGES FOR INFRINGEMENT OF PATENTS.

APRIL 28, 1882.—Referred to the House Calendar and ordered to be printed.

CASWELL, from the Committee on Patents, submitted the following

REPORT:

[To accompany bill H. R. 6018.]

ıe Committee on Patent sreports back bill H. R. 784, to amend sec-
forty-nine hundred and nineteen of the Revised Statutes, for the
very of damages for the infringement of patents, with a substitute,
recommends the passage of the bill when so amended.
ıe substitute provides, after striking out all after the enacting clause,
sert, viz:
No action for damages or proceeding in equity shall be sustained,
ıhall the party be held liable, under section forty-nine hundred and
ɛen or forty-nine hundred and twenty-one of the Revised Statutes
e United States, for the use of any patented article or device, when
all appear on the trial that the defendant in such action or pro-
ing purchased said article for a valuable consideration in the open
ɛet."

O

ıGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
ısion. } { No. 1140.

F FILING CERTAIN APPLICATIONS FOR PENSIONS.

.882.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

ɪE, from the Committee on Pensions, Bounty, and Back Pay, submitted the following

REPORT:

[To accompany bill H. R. 3887.]

nittee on Pensions, Bounty, and Back Pay, to whom was referred (H. R. 3887) to amend paragraph 3 of section 4693 of the Re-tatutes, submit the following report:

nmittee have duly considered House bill No. 3887, and are of ɔn that the same ought to pass.

rd paragraph of section 4693 of the Revised Statutes provides ;laims mentioned in that paragraph must be prosecuted to suc-ɜue prior to July 4, 1874.

ll seeks to extend the time for the completion of applications ıt paragraph to two years from the passage of this act.

opinion of the committee every claimant is justly entitled to ısion of time in which to complete and file his application.

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1141.

TO AMEND TITLE FIFTY-SEVEN ("PENSIONS") OF THE REVISED STATUTES.

APRIL 28, 1882.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. JOYCE, from the Committee on Pensions, Bounty, and Back Pay, submitted the following

REPORT:

[To accompany bill H. R. 5261.]

The Committee on Pensions, Bounty, and Back Pay, to whom was referred the bill (H.R. 5261) to amend title fifty-seven ("Pensions") of the Revised Statutes, submit the following report:

The committee have duly considered bill H. R. No. 5261, and, believing that it is in every way just and equitable, recommend its passage.

O

H CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
1st Session. } { No. 1142.

MARY J. WEST.

:IL 28, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

:. CULLEN, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill S. 455.]

e Committee on Invalid Pensions, to whom was referred the bill (S. 455) ranting an increase of pension to Mary J. West, having had the same under consideration, submit the following report:

Your committee have carefully examined the papers in this case on in the Pension Office, and find that the facts are fully and fairly ited in the report of the Committee on Pensions in the Senate, which adopt, and which is as follows:

That a similar bill was reported favorably to the Senate in the Forty-sixth Congress the Committee on Pensions, as follows:

'That it appears from the evidence in this case that the petitioner is the widow William C. West, deceased, late an officer of the United States Navy; that said lliam C. West entered the service of the Navy as a midshipman in 1841; that he promoted at various times during his long and continuous service, and at the e of his death at Washington, D. C., in June, 1879, he was on the retired list with rank of commander, he having been placed on the retired list in 1877. It also ears from the records of the Navy Department and the certificate of Navy surns who attended him at the time of his death that he died of rheumatism affect- the heart and stomach, for which he was placed on the retired list, and which contracted in the line of duty.

The medical records of the department show that Commander West was under itment at various times during his service. His widow, the petitioner, is now wing ten dollars per month pension, it having been decided by the Pension eau that she was pensionable under the general law, the only question being as hether the pension should correspond to the rank of the officer at the time of th or to his rank at some former time during his service when the disease was supd to have been contracted. Under a ruling of the department it appears to be l that the pension should correspond to the rank when the disease which ultimately sed death was contracted; and it was held in this case that the disease was conted or originated in 1853, at which time Commander West was treated for rheuic fever.

The medical records of the Navy Department are very full in this case, and it ears that the officer was frequently under treatment for short periods all through service, and that from an early period in his service he suffered occasionally acute attacks of cardiac neuralgia, and during the intervals was seldom free a dull pain about the heart with sharp pains shooting along the bronchial es. It would seem, however, that his condition was not sufficiently bad to ent his rendering efficient service, until finally, in 1879, his rheumatic disease inated in death. There appear to be no data of value as to when the disease sioning death did originate, and your committee are of the opinion that the pen- should correspond to the rank when the final attack took place which occasioned death."

he committee adopt the foregoing report; recommend that the bill be amended dding thereto the words, "the same to be in lieu of the pension which she is now iving, and to commence from the passage of this act," and, as thus amended,

O

'H CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
1st Session. } { No. 1143.

ADDITIONAL JUDGE FOR THE DISTRICT OF NEVADA.

RIL 28, 1882.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

r. TAYLOR, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany bill H. R. 6019.]

he Committee on the Judiciary, to whom was referred bill H. R. 3198, *report as follows:*

That E. W. Hillyer, judge of the United States district court for the istrict of Nevada, is wholly incapacitated to discharge his duties by eason of disease of the brain. For ten months no court has been held, nd there is no prospect of the recovery of Judge Hillyer. He has no apacity even to resign, while a large amount of important business is eady for disposition.

The committee report a substitute for the bill referred to them, and ecommend its passage.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1144.

TURTLE MOUNTAIN BAND OF CHIPPEWA INDIANS.

APRIL 28, 1882.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. DEERING, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany bill H. R. 1885.]

The Committee on Indian Affairs, to whom was referred bill No. 1885, to provide for the support and civilization of the Turtle Mountain band of Pembina Chippewa Indians, and to extinguish their title to lands claimed by them in the Territory of Dakota, beg leave to report the same back with amendments, and recommend that the bill as amended do pass.

In support of this recommendation the committee submit the following statement:

In 1863 the Pembina Chippewa Indians made a treaty with the United States, and ceded their lands in the Red River Valley, in Dakota and Minnesota. They reserved the lands north and west of Devil's Lake, in Dakota. About 500 of these Indians went upon a reservation in Minnesota, and have now become nearly self-supporting. About 250 of these Indians went into the country north and west of Devil's Lake, in Dakota, and have subsisted by hunting, &c., claiming title to about 9,000,000 acres of land. This vast country is now being occupied by hundreds of settlers, many of whom settled upon these lands before the Indian title was recognized by the Interior Department or these lands withdrawn from settlement.

In the report of the agent at White Earth, Minn., the following mention of these Indians is made:

Page 104, Report of the Commissioner of Indian Affairs, 1880:

A portion of the Pembina band, numbering 250 persons, still absent themselves from the reservation, and are roaming over the Territory north and west, destitute vagabonds.

No better illustration of the improved condition of the Indians upon reservations over those who endeavor to subsist elsewhere could be had than the thrift, industry, and comfort of the one, and the filth, idleness, and pitiful poverty of the other.

On page 110, Report of the Commissioner of Indian Affairs, 1881:

The agent at White Earth says: An active interest has been manifested in the improvement of the condition of the Indians engaged in agriculture, and especially is this true of those of the Pembina bands whose former condition of utter poverty and barbarism, as represented by my predecessor, are now among the most orderly, industrious, and thrifty under my charge.

In his letter to the Secretary of the Interior on the subject, under date of March 11, 1882, the Commissioner of Indian Affairs, referring to his recent report, said:

I have the honor to state that the affairs of these Indians was made the subject of a report to the department, dated the 4th ultimo, a copy of which is herewith inclosed

for the information of said committee, as showing the views held by this bureau in respect of the lands referred to in the bill under consideration, as well as the very urgent needs of the Indians who occupy and claim them.

It will be seen by reference to said report (pp. 9–10) that recommendation is therein made for legislation looking to the extinguishment of the Indian title to the lands claimed by these Indians, and for suitable compensation to the Indians for the lands that may be ceded by them to the government, so that the general features of this bill are in accord with the views held by this bureau, in respect of the things therein treated. However, there are certain modifications required, and I therefore recommend the following:

The Commissioner then suggests modifications and amendments, which your committee have inserted in the bill.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, February 14, 1882.

SIR: I have the honor to acknowledge the receipt, by your reference for report, of a letter dated December 29, 1881, from Lieut. H. M. Creel, of the Army, addressed to Hon. William Windom, of the Senate, who, in referring the same to the department, requests that he may be advised whether any action touching the lands therein referred to is desirable, and, if so, what legislation would, in the view of the department, be expedient.

The object of the writer, Lieutenant Creel, appears to be to secure legislation looking to the extinguishment of the Indian title (which he claims is very imperfect at best) to a vast area of country lying in the northern part of the Territory of Dakota.

As showing, very briefly, the view held by this bureau in respect of the status of these lands, and the condition and needs of the Indians occupying and claiming them, I beg leave to quote from my annual report to the department for the year last past (1881) as follows:

"TURTLE MOUNTAIN BAND OF CHIPPEWAS IN DAKOTA.

"The unsettled condition of affairs with these Indians has long been a matter of deep concern, not only to the Indians themselves, but to this bureau as well. Prominent among their troubles is the uncertainty on their part as to the view held by the government relative to the status of the lands claimed by them, and the purposes of the department in the matter of their ultimate disposal.

"The tract of country inhabited and claimed by them is north and northwest of Devil's Lake, in Dakota, and is estimated to contain 9,500,000 acres. These lands have never been ceded to the United States, and the claim of the Turtle Mountain band to ownership is based upon continuous occupation by them and their ancestors for many generations. That the Indian title to the country in question has never been extinguished or successfully disputed cannot be denied, and according to the theory that has been adopted by the government it would seem that these Indians have all the original rights in an unceded territory. Effort has been made from time to time to remove them to the White Earth Reservation in Minnesota, but they have steadfastly resisted such removal, lest the abandonment of the country claimed by them might be looked upon as a willing relinquishment of their title thereto.

"The condition of these people is deplorable in the extreme; they have no permanent abiding place, are very poor, and owing to the scarcity of game, which indeed may be said to have almost entirely disappeared, they have only the most scanty means of subsistence. Last year the agent at Devil's Lake Agency reported that chief Little Bull and his people were in great danger of actual starvation. Emigration is fast flowing into the country, to the great discomfort of the Indians, and they desire and have repeatedly asked protection from the government. That their condition requires the attention of the government is manifest. Petitions have been presented from both sides, Indians and whites, asking for a settlement of their difficulties, and I propose to make the matter the subject of a special report, with a view to securing early Congressional action looking to their permanent relief.

"I will add that the number of Indians roaming about over this vast area, homeless, destitute, and almost hopeless, is variously estimated at from 500 to 600 full-bloods, and from 1,000 to 1,500 half-breeds."

The press of business incident to the assembling of Congress has prevented me thus far from submitting the proposed report relative to the affairs of these Indians, but I gladly seize the opportunity presented in the request of the honorable Senator for information to submit such facts (in addition to the above) and suggestions as will, it

, meet his purposes and be sufficient as affording a basis for appeal to Con-
such legislation as the circumstances would seem to require.
'embina band of Chippewas (of which the Turtle Mountain Indians are a part)
a long time laid claim to the country hereinbefore referred to.
ears from the minutes of the treaty of October 2, 1863, with the Red Lake and
Indians, at which time they made a large cession of territory to the United
hat in executing said treaty the Pembina bands retained for themselves a
country north and northwest of Devil's Lake. In this connection Hon. Alex-
amsey, who negotiated said treaty on the part of the government, in his
ubmitted at the time, says: "The Pembina band, who subsist by buffalo
, also retain for themselves a tract of country claimed by them, embracing
the favorite pastures of that animal north and northwest of Devil's Lake."
'6 the Turtle Mountain Indians addressed a memorial to Congress praying for
irmation of their title to these lands, and that some provision be made for
otection, in which their claim was set out as follows:
r memorialists, the Turtle Mountain band of Chippewa Indians, respectfully
t that they and their fathers for many generations have inhabited and pos-
s fully and completely as any nation of Indians on this continent have ever
d any region of country, all that tract of land lying within the following
ies, to wit: on the north by the boundary between the United States and the
possessions; on the east by the Red River of the North; on the south their
y follows Goose River up to the Middle Fork; thence up to the head of Middle
hence west-northwest to the junction of Beaver Lodge and Cheyenne River
adwaters; thence northwest to the headwaters of Little Knife River, a tribu-
the Missouri River, and thence due north to the boundary between the United
nd the British possessions.
t their possession of this country has never been successfully disputed by any
eighboring or other tribes of Indians, but has at all times been recognized as
ntry of the Turtle Mountain band of the great Chippewa Nation, of which the
ippewas, Little Shell, grandfather, father, and son, have been principal chiefs
last fifty years, and that they have never by general council, by their chiefs,
ny authorized delegates entered into any treaty with the United States by
hey ceded any portion of their possessions." * * *
y be well to state here that if any of the Sioux tribes ever claimed this
, all such claim was relinquished by the treaty of April 29, 1868 (Stat. 15, p.
e second article of which, after defining the boundaries of their reservation,
s as follows:
l henceforth they will and do hereby relinquish all claims or right in and to
tion of the United States or Territories except such as is embraced within the
foresaid, and as hereinafter provided."
subsequent provision does not necessitate a modification of the above state-

is an evident error in the foregoing memorial in respect of the eastern boundary
claim, for by the treaty of October 2, 1863, before referred to, the Chippewas
ing these people) ceded to the United States all the territory owned and claimed
in Dakota east of a line running in a northeasterly direction from the eastern
Devil's Lake to the head of the main branch of Salt River; thence due north
east of the 98th degree west longitude) to the British possessions.
bove description is not that given in the treaty precisely, and is only approxi-
correct, yet it is deemed sufficient to the present purpose.
ounderies of the unceded Indian country claimed by the Pembina Chippewas,
ognized by this bureau to the extent indicated in report to department quoted
the beginning of this letter, are marked, with approximate accuracy only, upon
herewith inclosed. As has been seen, its area has been estimated at 9,500,000
As a portion of their original claim has been taken for the use of the Fort
d Indians, it is not likely that it will now exceed 9,000,000 acres.
ot at all probable that this territory will ever be needed by the government
an purposes. The Indians now occupying and claiming it do not need more
e-twentieth part thereof, and I am firmly convinced that the entire tract,
say, 500,000 acres, which should be retained in a compact body for them, should
for the benefit of the Turtle Mountain Indians, and their brethren now at the
Earth Agency, who should be held and deemed to be as much entitled to share
enefits arising from such sale as they, the Turtle Mountain band.
ms to me that these Indians are justly entitled to the recognition of their claim
part of the government to the lands in question, and the files and records abound
nce showing that this office has long recognized such claim.
ery long ago (in April, 1880) a draft of a bill was prepared here and submitted
epartment, in which it was provided, among other things of like character in
of other Indians, that "negotiations shall also be extended to and include the
Mountain Chippewas of Dakota for the extinguishment of their title for a cer-

tain sum to the unceded lands claimed by them in said (Dakota) Territory"; and a bill has been introduced in the present Congress (by Mr. Washburn, H. R. 3862, introduced February 2) having an object similar to the one just referred to, in which I find precisely the same provision.

In both of these bills it is provided that these Indians shall be consolidated with the other numerous bands of Chippewas upon the White Earth Reservation.

As has been said before, these Indians are unwilling to remove to the White Earth. They appear to be greatly attached to the country so long occupied by them, and they desire to have lands, with a permanent title thereto, somewhere in the vicinity of the Turtle Mountain. It is therefore unlikely that they will consent to so much of the measure as contemplates removal and settlement upon said reservation.

In view of the foregoing I would suggest to the honorable Senator (Windom) the propriety of asking Congress for authority to negotiate with the Pembina band of Chippewas, and such other Indians as should properly take part in such negotiations, for the cession of all the territory claimed by them in Dakota (except a tract sufficiently large to secure to them allotments in severalty for their permanent settlement, the location thereof to be hereafter determined). And as a suitable compensation for such cession, I would recommend that there be paid to them, annually, the sum of, say, $50,000 for the period of twenty years; the government to reimburse itself out of the proceeds of the sale of the ceded lands.

At 50 cents per acre, assuming the estimated area, after deducting the lands to be retained (8,500,000 acres), to be correct, the proceeds would reach the sum of $4,250,000; the interest on which amount, at 3 per cent., would be $127,500. At 25 cents per acre, the amount received would yield $63,750, at 3 per cent.

If the lands were sold at the minimum price of the public lands ($1.25 per acre), the amount accruing from such sale would be very great—$10,625,000.

The Indians need present assistance, and if it could be afforded in the manner suggested, without waiting the long processes usual in the sale of the public lands, it would be immeasurably to their advantage.

I return herewith Lieutenant Creel's letter, with Senator Windom's indorsement, and inclose a copy of this report.

Very respectfully, your obedient servant,

H. PRICE,
Commissioner.

The Hon. the SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, March 11, 1882.

SIR: I have the honor to acknowledge the receipt, by your reference for report, a letter from the chairman of the Senate Committee on Indian Affairs, of the 24 ultimo, inclosing Senate bill No. 925, "to provide for the support and civilization the Turtle Mountain band of the Pembina Chippewa Indians, and to extinguish the title to lands claimed by them in the Territory of Dakota," upon which the said committee desire from the department an expression of opinion as to the wisdom of the measure and its form, as well as any information upon the subject the department may wish to communicate.

In reply, I have the honor to state that the affairs of these Indians was made the subject of a report to the department dated the 4th ultimo, a copy of which is herewith inclosed for the information of the said committee, as showing the views held by this bureau in respect of the lands referred to in the bill under consideration, as well as the very urgent needs of the Indians who occupy and claim them.

It will be seen by reference to said report (pp. 9–10), that recommendation is therein made for legislation looking to the extinguishment of the Indian title to the lands claimed by these Indians, and for suitable compensation to the Indians for the lands that may be ceded by them to the government, so that the general features of this bill are in accord with the views held by this bureau in respect of the things therein treated. However, there are certain modifications required, and I therefore recommend the following:

At the end of line 6, first section, insert these words, "and the Pembina Chippewa Indians residing upon the White Earth Reservation, in the State of Minnesota."

The Pembina Chippewas, residing at the White Earth, claim a common interest with the Turtle Mountain band in the Dakota lands; such claim should be, and is, recognized by this bureau, and they have an undoubted right to share in the proposed negotiations in respect of the cession of said lands, and to receive an equal share in the benefits that may accrue from said cession.

Again, in line 8, same section, strike out the words "for a certain specified sum," and insert in lieu thereof the following: "On such terms and conditions as shall be

considered just and equitable between the United States and said Indians"; and add immediately thereafter the following: "which cession shall not be deemed and held to be complete until ratified by Congress; and the moneys agreed to be paid shall be appropriated and paid to said Indians or invested for their benefit, as the case may be."

As no appropriation is now made by Congress for the support of the Turtle Mountain band, the object of the second section is not clear. If said section be retained in the bill, it should be modified so as to be applicable to the Turtle Mountain band only, for the reason that the Pembinas living upon the White Earth Reservation receive a yearly gratuity from the government, and there is no reason for withholding such gratuity from them. By inserting in line 2 of said second section, after the word "said" and before the word "Indians" the words "Turtle Mountain band of Pembina Chippewa" the desired object would be reached.

Further, in line 3, section 3, after the word "the" and before the word "Indians" insert "said Turtle Mountain band of Pembina Chippewa," and after the word "Indians just referred to and before the words "White Earth Reservation," having stricken out the word "on," insert the following: "For their removal to and settlement upon the," and in lines 4, 5, and 6 strike out the words "for the location of said Turtle Mountain Pembina Chippewa Indians on said White Earth Reservation." Also, in line 7, same section, after the word "not" and before the word "remove" insert the words "consent to," and in same line strike out the words "or if" and also all that follows immediately thereafter to the word "then" (not inclusive of the word "then") in line 9, so that the third section as amended shall read as follows:

"SECTION 3. That the Secretary of the Interior or the commissioners aforesaid be, and are hereby, further authorized to negotiate with the said Turtle Mountain band of Pembina Chippewa Indians for their removal to and settlement upon the White Earth Reservation, in the State of Minnesota: *Provided*, that if the said Turtle Mountain Pembina Chippewa Indians will not consent to remove to said reservation, then the Secretary of the Interior" (and the remainder of the section as it now reads).

The reasons for the modifications of the third section as above are as follows:

The Pembina Chippewas, including the Turtle Mountain band, have at the present moment a township of land upon the White Earth Reservation that was purchased for them under the act of March 3, 1873. (17 Stat., p. 539.) Therefore the proposed legislation looking to negotiations with the White Earth Indians for the settlement of the Turtle Mountain band upon said reservation is regarded as unnecessary.

In section 4, line 3, after the word "the" and before the word "said" insert the words "agent at Devil's Lake Agency, or such other person as", and after the word "Interior," in line 4, same section, strike out the words "or the commissioners herein provided for," and insert in lieu thereof the words "may designate for the purpose"; so that the first clause of said section, as amended, shall read as follows:

"SEC. 4. That all allotments set apart under the provisions of this act shall be selected by the Indians, heads of families selecting for their minor children, and the agent at the Devil's Lake Agency, or such other person as the Secretary of the Interior may designate for the purpose, shall select for each orphan child."

In section 6, line 1, after the word "said" and before the word "Indians" insert "Turtle Mountain band of Pembina Chippewa."

As regards section 8 of the bill, which provides that "immediately upon the passage of this act" certain of the lands claimed by the Indians and therein described shall be open to entry and settlement, I would state that while said section might seem objectionable on the ground that the consent of the Indians is not made a prerequisite condition thereof, there are potent reasons that may properly be urged to justify the proposed action.

A large immigration, attracted by the profits of wheat-raising, has for the last two years been pouring into Northeastern Dakota, extending their settlements to the lands claimed by the said Indians in the counties of Pembina, Cavalier, Ramsey, and Grand Forks, the counties mentioned in said eighth section. Portions of these counties are already overrun with settlers of a worthy class eager to cultivate the soil, which in that section promises the largest returns at a minimum cost of labor.

Numerous petitions and appeals have been received from settlers and others for some action looking to the extinguishment of the Indian title to these lands, a title which, while it has long been recognized by this bureau on the ground of original Indian rights, and that the lands have never been ceded to the United States by any Indian tribe or tribes, as in the case of adjacent lands ceded from time to time, the whites have held that the Indians have no real title, and that their claim should not be respected. For which reason, perhaps, taken in connection with the fact that the Indians themselves have never of late years made any good use of these lands, indeed, no use whatsoever since the disappearance of the buffalo (I speak now of the lands lying north and northeast of Devil's Lake), no attempt has been made to keep settlers from occupying the same.

Again, the vastness of the area claimed by these wandering people, and the absence of any definite knowledge respecting their original rights as against the various other

tribes that have inhabited that section of the Northwest, have tended in a (doubt to lessen the respect that, under other conditions, might have been en in regard to their claim to title to the lands in question. Add to this the fact t Indians have steadfastly resisted the persistent efforts that have been made them upon the White Earth Reservation, where they might receive proper assistance from the government, and have preferred to lead a shiftless, ai where they now are, and it may not be a matter of surprise that the stricte lance has not been had in respect of encroachments upon the lands to whicl claim, or that they themselves have been to some extent neglected.

It is true one of their main objections to removal to White Earth has bee that an abandonment of their lands might be looked upon as a relinquishmen claim, and in that light of the case their feelings are entitled to some respec

However, this office now, as heretofore, feels bound to recognize the clain people, and as it is the chief desire of the Indians, and this bureau as well, permanent homes and the necessary means for their support until such tim may be able to take care of themselves in the pursuits of civilized life, a known beyond any reasonable doubt that the Indians will not be exacting gladly accept any reasonable terms that may be offered them, and believing fu Congress will not fail to promptly ratify any proper agreement that may b into under the provisions of the first section of the bill, this office is strongl to favor the provisions of the last section, in the interest of the very large im now seeking that country and the settlers already there; provided, however, section (8th) be so amended as to include in its proposed benefits any India improvements upon said lands.

It is not known that there are any such, but for the protection of any ther such amendment should be inserted.

The following is proposed:

At the end of the section (8) add: "*Provided*, That all Indians having ments upon any of said lands, who would be entitled to allotments under and 4 of this act, and who may desire to remain permanently in the enjoymen shall not be dispossessed of the lands upon which such improvements are si anything in this section contained, but shall be entitled to select their allo in said sections 3 and 4 provided; which allotments shall be subject to the and restrictions of sections 5 and 6, in respect of allotments therein referre

In conclusion I would state that H. R. 3862, present Congress, "A bill for of the Chippewa Indians in the State of Minnesota and Territory of Dak vides, among other things, for negotiations looking to the removal of t Mountain band to the White Earth Reservation and consolidation with th now residing there; also for the relinquishment of their title, for a certai their Dakota lands. Should both bills pass, no conflict would result, as the inconsistent with each other.

Very respectfully, your obedient servant,

H. PRI
Commi

To the Hon. the SECRETARY OF THE INTERIOR.

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1145.

TESTIMONY IN CONTESTED-ELECTION CASES.

APRIL 28, 1882.—Referred to the House Calendar and ordered to be printed.

Mr. PETTIBONE, from the Committee on Elections, submitted the following

REPORT:

[To accompany bill H. R. 5169.]

The committee having had under advisement the bill No. 5169, which authorizes commissioners of the circuit courts of the United States to take testimony in cases of contested election of members of the House of Representatives, and to amend sections 110 and 111 of the Revised Statutes, to that end recommend unanimously the passage of the bill. It would appear to have been an oversight in not including United States commissioners originally among the officers authorized to so take testimony. There certainly can be no objection to a commissioner of a circuit court of the United States taking testimony as well as a notary public or a register in bankruptcy. It is manifestly wise to allow the parties to a contested-election case the largest facility to take their testimony within the time provided by statute.

And the committee therefore unanimously recommend the passage of the bill.

O

'TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1146.

CHEROKEE INDIAN LANDS.

APRIL 27, 1882.—Referred to the House Calendar and ordered to be printed.

r. CRAVENS, from the Committee on the Public Lands, submitted the following

REPORT:

[To accompany bill H. R. 5544.]

The Committee on the Public Lands, to whom was recommitted the ill H. R. 5544, has duly considered the same, and, with the amendments ereinafter proposed, recommend its passage.

It is proposed to amend the bill as follows:

1st. By inserting between the words "acres" and "with," in the ninth ne of the third section, the words following: "including the tract on hich they reside, if residing on adjoining lands."

2d. By adding after the word "title," in the eleventh line of same secon, the words following: "but in no case shall actual settlers on adining lands be permitted to abandon any part of their claims upon hich settlements have been made to secure a larger or increased mount of the reservation."

While this tract of land is called the Cherokee Reservation, it is not a proper sense an Indian reservation, as its name indicates. At the me the treaty of 1828 was concluded, whereby an interchange of lands as made between that tribe and the United States, their agency was cated upon the lands mentioned in this bill, and in said treaty the llowing provision is found:

It is further agreed that the property and improvements connected with the agency all be sold under the direction of the agent, and the proceeds of the same applied aid in the erection, in the country to which the Cherokees are going, of a grist and w mill for their use.

In the subsequent treaty of February 14, 1833, the following language found:

And said United States will cause to be erected on said lands, for the benefit of said herokees, eight patent railway corn-mills, to be erected according to the stipulations the fourth article of said treaty of sixth of May, one thousand eight hundred and enty-eight, from the avails of the old agency.

On June 23, 1834, Congress made an appropriation of $1,600 for the urchase of the corn-mills for the Cherokees, and in 1844 eight patent ailway corn-mills were purchased by the Indian agent and paid for by he United States, costing $200 each. Prior to 1834 an effort had been ade to sell the reservation, the agent selling the same becoming the urchaser, which pretended sale was canceled. Whether the patent ailway corn-mills were erected or not, as provided by the stipulation bove should be done, different Commissioners of Indian Affairs seem to iffer in opinion. The Indians insist that seven of them were not erected.

therein. On the 14th of August, 1866, the Secretary of the In instructed the Commissioner of the General Land Office "to tal proper steps to bring said land into market." For want of fun make the necessary surveys the lands were not at that time placed the market.

On June 1, 1877, the Commissioner of the General Land Offi dressed a letter to the Commissioner of Indian Affairs, stating th plication had been made for a survey and sale of the lands, and a whether the stipulations relative to said lands under the treaties o and 1833 had been complied with on the part of the United Stat whether those obligations remained in force. In it the further ment was made that the lands were claimed by the Indians under a 18 of the treaty of July 19, 1866.

Under date of February 18, 1878, the Commissioner of Indian A reported to the department, expressing the opinion that the treat gations of the United States had been complied with, and that th dians had no title to the land. He also recommended that the Co sioner of the General Land Office be instructed to treat the same part of the public domain, and proceed to the survey and sale th whenever such course might be deemed practicable and advisable. Secretary of the Interior concurring in the opinion of the Commis of Indian Affairs, on June 27, 1878, transmitted his report to the missioner of the General Land Office, and referred the subject to for action. The Commissioner of the General Land Office then caused the lands embraced in the reservation to be surveyed, a structed the register and receiver at Dardanelle, Ark., that the numbered sections fell within the grant to the Little Rock and Smith Railroad Company, and that the odd-numbered sections wer ject to entry under the pre-emption and homestead laws as uno public lands of the United States.

Homestead entries were at once made by settlers upon the odd bered sections. On the 27th August, 1879, a party made applicat the local land office for a homestead entry on an even-numbered s of the reservation, which was refused, and he appealed. The Co sioner of the General Land Office decided the case upon appeal. I

The Indians, it will be remembered, claimed title because, as they say, the corn-mills had not been erected. His conclusions were that the title is unquestionably in the United States, but that the Indian Office, the Secretary of the Interior, and all hands had overlooked the reserved condition of the lands; that, because of their reserved state, the railroad company had no interest in them whatever; and for the same reason homestead entries had been prematurely allowed, an act of Congress being necessary to relieve them from their reserved condition, and to open them for entry.

The following language is used by him in the concluding portion of his opinion:

The action of this department in 1866, in erroneously treating the reservation as unreserved public lands, and proposing to bring the same into market, was tantamount to an official permission to settlers to enter upon the land with a view to acquiring title under the settlement laws of the United States. The later action of this department in 1878, and the instructions issued by this office thereunder, allowed homestead and pre-emption entries to be made upon odd-numbered sections.

It is thus seen that settlers have been led by the acts of the Executive Department to establish themselves upon this land, and to invest their means and labor in its improvement.

The reservation embraces 3,343.41 acres, and is situated on the Arkansas River, along the line of the Little Rock and Fort Smith Railroad, and near the town of Dardanelle.

In 1878 there were, according to official reports, some thirty settlements on the reservation, covering about 600 acres. Other settlements may have since been made.

The occupants who have already filed their homestead applications have done so under the authority of this department; they have complied with all the forms of law in respect to such applications, and have paid the legal fees and commissions, which moneys have been duly accounted for and covered into the Treasury.

Those who have been prevented from making homestead or pre-emption entries, in consequence of the instructions of this office, that the land in even-numbered sections inured to the railroad company, have scarcely less equitable rights than those who have been permitted to formally file their claims.

As to either class of settlers it would, I think, be a hardship, that ought to be avoided if possible, to require the lands to be appraised at their present value, and thus compel the occupants to pay for their own improvements, when they have entered upon and improved such lands under the authority, expressed or implied, of the Land Department of the Government.

Besides, it is quite likely to be true that many of those now in possession would be unable to pay even the sum of $200 or $400 for the 160 acres upon which their homes have thus been established.

I would, therefore, respectfully recommend that, in whatever course may be pursued for extinguishing the legal reservation, the rights of the present actual occupants should be recognized and protected, and to this end that recommendation be made to Congress for the confirmation of the homestead entries which have been allowed by the local officers, under their instructions from this department, and for permitting other present actual settlers to prove their claims and to make entries under the homestead and pre-emption laws of the lands occupied and improved by them, the remainder of the lands to be brought into market in the usual manner.

This opinion was approved by the Secretary of the Interior March 19, 1881. There can be no question, in the opinion of your committee, as to the correctness of these conclusions.

This bill, as presented, meets with the approbation of the Commissioner of the General Land Office, so far as submitted to him for his consideration and judgment, and the only portion not submitted is so much of the third section as relates to settlers on adjoining lands a part of whose improvements are upon the reservation.

Your committee think there can be no sound objection urged to that addition, as its purpose is only to confer such rights upon that class of settlers as they would have enjoyed had the reservation in point of law been open to settlement, homestead, and pre emption entry.

It is due to the House to say, as a part of the history of the original bill while before the committee, that it was submitted to the Secretary

of the Interior and by him to the Commissioner of Indian Affairs; and that in a communication, dated February 13, 1882, to the Secretary, afte reciting the history of the reservation and the treaty stipulations in re lation thereto, he says there is no evidence that more than one of th corn-mills was ever erected in the Indian Territory. He further say that—

On the 30th November last, J. B. Wright, of Cincinnati, made a claim in favor John Brown Wright to these lands, he having paid the Cherokee Nation, through i duly appointed delegates, $5,000 for the same lands, and in verification of the clai submitted a copy of an agreement made May 10, 1866, with said delegates, wherel they convey to said Wright the aforesaid lands for the sum of $5,000, the receipt which they acknowledge, and request the government to issue a patent therefor to M Wright.

He holds that the Cherokees had no right to sell the land, and th Mr. Wright's claim thereto is null and void, concurring with his pred cessors in the view that the title is in the United States. Notwithstan ing this, he says that—

No legislation should be had providing for the sale of this land, as contemplated the bill submitted, without express provision being made therein for an appropriati of money sufficient to enable this department to fulfill the obligations of the trea stipulations herein recited, and that in making said appropriations provision shou be made for the satisfactory settlement of the claim of Mr. Wright.

He recommended the addition of two sections to the bill: one appr priating money to carry out the treaty stipulations, and the other in e fect providing for its payment to John Brown Wright. The last-name proposed section reads as follows:

That the Secretary of the Interior is hereby authorized and empowered to exami the claim of John Brown Wright and to retain out of said appropriation and pay said Wright or his legal representatives such amount as he may find to be legall and equitably due him, arising out of an agreement made May tenth, eighteen hun dred and sixty-six, between said Wright and the Cherokee Nation for the purchase the aforesaid lands: *Provided*, That said claim does not exceed the amount appropr ated: *And provided further*, That, before the payment of any portion of said appropr ation is made, the said Cherokee Nation of Indians shall execute a deed of conveyanc to the United States, relinquishing all right, title, and interest in and to the land aforesaid, or to the proceeds of the sale thereof: *And provided, also*, That the sai John Brown Wright or his heirs or legal representatives shall execute a deed of con veyance to the United States, relinquishing all right, title, or interest in and to sai lands, said deeds to be severally approved by the Secretary of the Interior and r corded in the office of the Commissioner of Indian Affairs.

The frame of the above proposed section is remarkable; even tho John Brown Wright may be adjudged to have no claim, yet he is quired to execute a deed before the money could be paid to the Ch kees, and this, too, when it is held that the title is in the United St The delegates of the Cherokee Nation appeared before your commi and protested against the section above given, but urged an approp tion of money to be paid to the nation equal to the value of the la at the price of $1.25 per acre, in satisfaction of the broken treaty st lations.

In view of the diversity of opinion between the present Commissio of Indian Affairs and his predecessors, as to whether the treaty stip tions have been fulfilled or not, and the interjection of the claim of J Brown Wright, your committee declined to act, deeming the subj matter appropriate for consideration by the Committee on Indian Affa

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1147.

CERTAIN DEBTS INCURRED BY SOLDIERS AND RECRUITS.

APRIL 28, 1882.—Referred to the House Calendar and ordered to be printed.

Mr. SPAULDING, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 6020.]

The Committee on Military Affairs, to which was referred H. Ex. Doc. No. 115, first session Forty-seventh Congress, respectfully reports a bill to make certain debts incurred by soldiers and recruits a lien against their pay, and recommends its passage for the reasons set forth in said executive document and appearing below:

To the Senate and House of Representatives:

I transmit herewith, for the consideration of Congress, a communication from the Secretary of War of the 6th instant, and accompanying papers, recommending the passage of an act making certain debts incurred by soldiers a lien against their pay.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, *March* 10, 1882.

WAR DEPARTMENT,
Washington City, March 6, 1882.

To the PRESIDENT:

I herewith transmit a communication from Lieut. Col. W. P. Carlin, Seventeenth Infantry, commanding the recruiting depot at Columbus Barracks, Ohio, dated the 19th instant, with an indorsement thereon by the superintendent of the general recruiting service, in behalf of the passage of an act making the debts incurred by soldiers for the washing of their clothing a lien against their pay.

The facts set forth by the officers above mentioned and by the Adjutant-General of the Army, whose letter is also transmitted, plainly indicate the necessity for the legislation asked for, which, accordingly, I respectfully recommend.

I am, sir, very respectfully, your obedient servant,

ROBERT T. LINCOLN,
Secretary of War.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, March 1, 1882.

SIR: I have the honor to submit herewith a letter from Lieut. Col. W. P. Carlin, Seventeenth Infantry, commanding the recruiting depot at Columbus Barracks, Ohio, presenting a statement as to the necessity for such legislation as will make debts incurred by soldiers for the washing of their clothing a lien against their pay.

The recent decision of the Second Comptroller that "there is no law permitting a stoppage from a soldier's pay for the purpose of discharging his indebtedness to an individual for washing or other private liability," prevents any charge of this nature being entered on the muster and pay rolls.

I beg, therefore, to recommend, for the reasons presented by Lieutenant-Colone

Carlin and the superintendent general recruiting service, that application be made to Congress for such legislation as may be necessary to accomplish the end desired.

I have the honor to be, sir, very respectfully, your obedient servant,

R. C. DRUM,
Adjutant-General.

The honorable the SECRETARY OF WAR.

DEPOT GENERAL RECRUITING SERVICE,
Columbus Barracks, Ohio, February 19, 1882.

The ADJUTANT-GENERAL U. S. A., *Washington, D. C.*
(Through headquarters general recruiting service, New York City):

SIR: I have the honor to make the following representations to the Secretary of War and to recommend that the attention of Congress be called to them, with the object in view of a remedy for the evils set forth.

There are constantly at this depot an average of three hundred men who never receive any pay while here; they come as recruits, not one in one hundred having any money. There are fifty or sixty of this number who never had habits of cleanliness, and few who ever washed their own clothes. It is very important that the strictest attention be paid to the cleanliness of the men; but it is impossible to teach them to boil and wash their clothes properly, even if the means of doing it were at the depot. The company commanders cannot compel the men to hire the washing of their clothes, as they have not the means to pay for such service; consequently many men have become infested with vermin. This nuisance falls heavily on the class of men whose habits of cleanliness are not the cause of the infection.

It is therefore recommended that Congress be asked to pass an act which shall make the amount owed by a soldier for washing his clothes a lien on his pay.

I am, sir, very respectfully, your obedient servant,

W. P. CARLIN,
Lieut. Col. Seventeenth Infantry, Commanding.

[First indorsement.]

HEADQUARTERS G. R. S.,
New York City, February 21, 1882.

Respectfully forwarded to the Adjutant-General of the Army.

The matter of cleanliness within referred to by the depot commander at Columbus Barracks, Ohio, is deserving of serious consideration, and it is earnestly recommended that some means be devised by which it can be attained.

W. H. WOOD,
Colonel Eleventh Infantry, Superintendent.

'H CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
1st Session. } { No. 1148.

KLAMATH INDIAN RESERVATION, IN CALIFORNIA.

APRIL 28, 1882.—Referred to the House Calendar and ordered to be printed.

r. SPAULDING, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany bill H. R. 60.]

e Committee on Indian Affairs, to whom was referred the bill (H. R. 60) for the restoration of the Klamath Indian Reservation, in the State of California, to the public domain, respectfully report:

The facts, as found by your committee, appear in the accompanying ters of the Commissioner of Indian Affairs, and of Lieut. Gordon inslow, Eighth United States Infantry, acting Indian agent.

It is recommended that the bill be amended, as suggested by the Com- ssioner, and as so amended be passed.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, March 24, 1882.

SIR: I have the honor to acknowledge receipt (March 1), by informal reference from n. O. L. Spaulding, of the House of Representatives, of House bill No. 60, present sion, "A bill for the restoration of the Klamath Indian Reservation, in the State of lifornia, to the public domain," upon which an expression of opinion is requested.

In reply, I have the honor to state that the bill is an exact copy of House bill No. 54, Forty-sixth Congress, second session, introduced by Mr. Berry January 12, 1880, garding which this office, being called upon for report thereon, declined to give its proval, for the reason that the bill entirely ignored the Indians, who were at the e, and are now, residing upon the reservation to which the same related.

These Indians (numbering, from the best information obtainable, about 212 souls) entirely self-supporting, relying for subsistence mainly upon the salmon which ound in the Klamath River, and are, in the view of this office, pre-eminently enti- d to consideration and protection at the hands of the government. They have re- ed upon the reservation since 1855—more than a quarter of a century.

The Klamath River Reservation was set apart for Indian purposes by Executive der of November 16, 1855, in pursuance of the act of March 3, 1855, providing for collecting, removing, and subsisting of the Indians of California on two additional litary reservations, which were not to exceed 25,000 acres each.

By letter of this office, dated November 10, 1855, the attention of the honorable cretary of the Interior was called to a report of Superintendent Thomas J. Henley, ting that he had selected under orders from this office, as an appropriate location one of said reservations, "a strip of territory one mile in width on each side of Klamath River for a distance of 20 miles from the mouth," and it was suggested case the honorable Secretary was of opinion that the selection at the *mouth of the amath* was a judicious one, that it be laid before the President for his approval, but th the provision, however, that, upon a survey of the tract selected, a sufficient antity be cut off from the upper end of the proposed reserve, to bring it within the itation of 25,000 acres authorized by the act of March 3, 1855.

The initiatory point and boundaries of the reservation were defined in the letter of

the Hon. R. McClelland, Secretary of the Interior, to the President, dated N 12, 1855, as follows: "Commencing at the *coast of the Pacifi- Ocean* and exten mile in width on each side of the Klamath River," &c., in terms as laid down letter of November 10, 1855, asking that the reservation be set aside; and un of November 16, 1855, the President directed that the "reservation be mad posed."

In the year 1861, nearly all of the arable land was destroyed by a freshet, rend reservation almost worthless; in view of which a new reservation was est adjacent thereto, by order of the Secretary of the Interior, dated May 3, 186 reservation was known as the Smith River Reservation. It was discontin clause in the Indian appropriation act approved July 27, 1868 (15 Stats., whereupon the Indians were removed to the Hoopa Valley Reservation.

The Klamath River Reservation has not been made use of for Indian purpo the freshet referred to, save that some of the Indians who refused to remove t River in 1862 have continued to reside there. Over such, however, this offic ercised no jurisdiction whatsoever since the removal of the agency to Smith

Conflicting reports have been made by the civil and military authorities, at times, as to the number of Indians residing at the present time upon the res A recent census has been taken, however, under military supervision, and lieved to be the most reliable yet had.

I inclose herewith a copy of a letter from Lieut. Gordon Winslow, of th acting United States Indian agent at Hoopa Valley Agency, dated September reporting the result of said census, by which it will be seen that the Indian tion of the reservation is 212.

To return to the consideration of the bill: The lands embraced within the ervation are not needed (as a reservation) for Indian purposes, but that the In siding thereon should be protected in the peaceful occupancy and enjoyment homes, to which they have become much attached, and where they have gained hood unaided by the government for more than a quarter of a century, is cert yond dispute.

In order to effect this, I have to recommend that a further provision be add bill, at the end thereof, in substance as follows:

"That before any of the foregoing provisions except that authorizing and d the Secretary of the Interior to have the lands embraced in said reservation s shall be held and deemed to be in effect, there shall be selected and allotted Indian belonging to and residing upon said reservation, lands within the said reservation as follows:

"To each head of family one quarter-section.

"To each single person over eighteen years of age, one-eighth of a section

"To each person under eighteen years of age, one-sixteenth of a section.

"Such selections and allotments to be made under the supervision of co commissioners, not exceeding three in number, to be appointed by the Secreta Interior; the title to the lands so selected and allotted to be confirmed to the by patents, which the Secretary of the Interior shall cause to issue therefor; to all lands acquired by any Indian by virtue of this act to be inalienable and ject to taxation, lien, or incumbrance for a period of twenty-five years from patent and until such time thereafter as the President may see fit to remov striction, which said restriction shall be incorporated in the patents when iss

With the amendment above proposed, I see no objection to the passage of It is suggested, however, that provision should be made for an appropriation the expense of survey and of the commission to be appointed as proposed.

A copy of this report is inclosed.

Very respectfully, your obedient servant,

H. PRIC
Commis

The honorable the SECRETARY OF THE INTERIOR.

HOOPA VALLEY AGENCY, CALIFORNI
September 26,

SIR: I have the honor to refer you to my letter of April 8, 1881, wherein it i that there are not more than one hundred and fifteen Indians upon the Klama Reservation, which extends 20 miles up the Klamath River from the ocean, mile in width upon each side of the river. The information which led to t ures, was gleaned principally from civilians, who are, I believe, somewhat in lessen the number, thinking doubtlessly that the smaller the number the gre likelihood of its being thrown open to settlers.

There has just been a census taken of this reservation, under military a

and under very favorable circumstances, rendering the result as nearly accurate as it can well be.

Sergeant Blake, who has been upon detached service on this reservation for some ten months, assisted in this census, the result is as follows:

Ranch.	No. of dwellings.	No. of males.	No. of females.	No. of children.	Total.
Regua	19	30	28	6	64
Wirks-wah	4	10	8	1	19
Hop-pa	8	13	8	1	22
Wakel	1	1	2	1	4
Toe-rup	3	8	6	1	15
Sah-sil	5	7	8	3	18
Ai-yolch	6	16	11	5	32
Sur-ter	5	14	15	10	39
Total	51	99	86	28	213

The reason for such a discrepancy is attributable to the nomadic habits of these Indians, a portion of them absenting themselves from the reservation for months.

At the time the census was taken these facts could not be ascertained in their entirety, as the enumerators were ignorant of their habits, and it is a matter of impossibility to glean any useful information from the Indians.

The result as shown above shows the advantage of procuring the services of one who has lived in their vicinity.

Very respectfully,

GORDON WINSLOW,
First Lieutenant Eighth United States Infantry, Acting Indian Agent.

The Hon. COMMISSIONER OF INDIAN AFFAIRS,
Washington, D. C.

O

TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1149.

MEXICAN POTTAWATOMIE INDIANS.

APRIL 28, 1882.—Referred to the House Calendar and ordered to be printed.

SPAULDING, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany bill H. R. 6021.]

: Committee on Indian Affairs, to whom was referred the bill (H. R. 778) to enable the Secretary of the Interior to make final settlement ·ith the Mexican Pottawatomie Indians under treaty stipulations exist·ng with them, respectfully reports as follows:

'he committee reports a substitute for said bill, and recommends its ssage, for reasons appearing in the following letter of the Commis-ner of Indian Affairs to the Secretary of the Interior:

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, March 27, 1882.

SIR: I am in receipt by your reference of the 22d instant of a communication from House Committee on Indian Affairs, submitting for the views of the department bill (H. R. 1778) "to enable the Secretary of the Interior to make final settlement th the Mexican Pottawatomie Indians under treaty stipulations existing with them," d the bill (H. R. 2965) "to enable the Secretary of the Interior to make final settle-nt with the Pottawatomie Indians in Michigan and Indiana under treaty stipula-ns existing with them."

n view of the labor involved in the examination of the claims of the Indians men-ned in the bill No. 2965, a report cannot be made at this time, but the matter will attended to at the earliest date possible.

n relation to the bill 1778 for the relief of the Mexican Pottawatomies, I have the nor to state that the claims of the Indians mentioned was the subject of a report to Secretary of the Interior January 24, 1881, in which will be found a history of ir claim and the following facts:

'he treaty of February 27, 1867, with the Pottawatomies (15 Stat., page 531) pro-led that where allottees under the treaty of 1861 had died they should be considered izens of the United States, and their lands should be patented in fee simple, their ires of the treaty funds should be capitalized, and the courts of Kansas should take arge of the settlements of their estates, and appoint guardians of their orphan chil-n. Early in 1871 a list of Pottawatomies who desired to become citizens of the ited States and to receive their per capita share of the tribal funds was prepared d duly certified by the business committee of the tribe, according to the reqnire-nts of the treaty. The list included the following names:

1. Kah-ro-sah.
2. M. Kko-qua-wa.
3. Wa-sho-qua.
4. Go-sha-was.
5. Na-oh-qah-be.
6. Ba-na-zhwa-qua.
7. Pe-qua.
8. Kah, tsa-qua.
9. Nas-he.
10. Kish-kunk-e-uk.
11. K-pa-yo-mah.
12. Pe-ad-wa-dnea-qua.
13. Mah-ne-awn-kpa-yo-mah.
14. Cha-ksot.
15. Wah-be-ah-shkuk.
16. Sha-wa-shkuk.
17. Ko-ze-qua
18. New-yoh-gua.
19. Puk-quere.
20. Nwa-ka-quah.

21. Pua-nuk-qua.
22. Maghe-nah-uim-nuk-shkuk.
23. Kas-qua.
24. Wain-he-qua.
25. Zhah-buak.
26. Ne-hah-we.
27. Auch-ma-gwe.
28. Otish-qua-ya.
29. Ze he-qua.
30. Mko-o-quih-ma.
31. Wah-we-ah-kunk.
32. Shaw-we.
33. Muk-hise.
34. Nah-quah-shkuk.
35. Taba-seiq.
36. Captain John.
37. Pam-je-yak.
38. Mhuk-do-sko.

All the above were reported by the business committee as dead, which fact, according to the treaty, gave them the status of citizens. Their funds were accordingly capitalized, and in June, 1871, the sum of $661.19 per capita was paid by S. W. Thomas, special Indian agent, to the administrators, appointed as such by the Kansas courts, and whose letters of administration are on file in the Treasury Department, with the account of said Thomas. Of these, the shares of Nos. 1 to 4, 11 to 14, 32 and 38 were receipted for by B. F. Payne, administrator; Nos. 10, 15, 16, 18, to 28, 34, and 37, by Geo. L. Young, administrator; and Nos. 5 to 9, 17, 29, 30, 31, 33, 35, and 36, by E. G. Nadeau, administrator.

In 1872 most of the Mexican Pottawatomies "returned to life, and the United States." The same year a consolidated roll of all the citizen Pottawatomies was made preparatory to making them a final payment of all the remaining tribal funds to which they were entitled. Upon this roll were placed the names of the Mexican Pottawatomies, but when the payment of $143.33 per capita came to be made by Superintendent Hoag, in November, 1872, it was found that the appearance of the Mexican Pottawatomies had so disturbed their status as citizens that their claims to any such payment were extremely doubtful, since, as live citizens, they had failed to qualify according to the requirements of the treaty. The shares of all but Nos. 1, 2, 3, 4, 22, 23, 24, 29, 30, 35, and 36, which were paid direct to the parties, were retained by Superintendent Hoag, and covered into the Treasury, to their credit, until their rights, and those of their numerous heirs, administrators, and guardians, should be decided.

In 1875, steps were taken by this office to institute suits against Young, Payne, and Nadeau, to recover the moneys collected by them as administrators of so-called deceased Pottawatomies, and for the interest on the same at six per cent. per annum. On the 12th of February, 1876, and 7th of June, 1877, suits were entered in the United States district court of Kansas against Young and Payne, and judgment was rendered against them for $15,280.98 and $8,309.04, respectively, but executions issued June 7, 1877, were returned, "no property found." E. G. Nadeau had already refunded to Indians represented by Nos. 29, 30, and 35, the moneys previously collected by him on their account, and agreed to refund the balance of the sums collected, with interest, without suit. *Nine shares* should have been refunded by him, but by some error, District Attorney Peck called on him for only *eight*, viz, Nos. 5, 6, 7, 8, 9, 31, 33, and 36, amounting to $5,289.56, which sum was paid over by Mr. Nadeau, and brought back on the books of this office to the credit of said Pottawatomies, and there it has since remained, pending settlement of the question as to the status of the claimants.

The bill enacts that the sum of $38,694.56 be appropriated out of any moneys in the Treasury not otherwise appropriated for the purpose of fulfilling treaty stipulations with the said Indians, while from calculations made in this office the sum due is $27,011.60, of which amount $17,995.46 only is to be appropriated out of moneys not otherwise appropriated, the balance $9,016.14 being on the books of this office to the credit of the Indians interested. The amount to be appropriated is made up of the following sums, namely:

Ten shares of $661.19, paid to B. F. Payne, and not recovered	$6,611 90
Sixteen shares of $661.19, paid to George L. Young, and not recovered	10,579 04
One share of $661.19, paid to E. G. Nadeau, and not recovered	661 19
One share of $143.33, paid by Enoch Hoag to a Mexican Pottawatomie Indian not on the list of 38 named in this report, thereby increasing the number to 39. He paid eleven shares and covered back into the Treasury twenty-six shares, leaving a deficiency to be met of one share	143 33
Total	17,995 46

I respectfully recommend that the bill be so amended as to appropriate only the sum of $17,995.46 out of any moneys in the Treasury not otherwise appropriated, and that the Secretary of the Interior be authorized to pay the balance due, $9,016.14, from funds standing to the credit of said Indians on the books of the Treasury.

Very respectfully,

H. PRICE, *Commissioner.*

The Hon. SECRETARY OF THE INTERIOR.

O

TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1150.

J. L. BURCHARD.

PRIL 28, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Ir. AINSLIE, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany bill H. R. 64.]

he Committee on Indian Affairs, to whom was referred the bill (H. R. 64) for the relief of J. L. Burchard, late Indian agent at Round Valley, California, respectfully report:

It appears from the letter of the Second Comptroller of the Treasury hat J. L. Burchard, Indian agent at Round Valley, California, was inficient and seemed to have but little knowledge of law or bookkeepig, and made purchases and disbursements as agent not in accordance ith law.

It appears that he has filed vouchers for all purchases and disburseients, though some of the vouchers are irregular in form, and in some ases the information upon which the vouchers are based is not fully atisfactory.

Mr. Berry, the author of the bill, addressed a letter of inquiry to Mr. V. W. Upton, the Comptroller, in regard to Agent Burchard's accounts. Ir. Upton's reply is as follows:

TREASURY DEPARTMENT, SECOND COMPTROLLER'S OFFICE,
Washington, D. C., December 14, 1881.

SIR: I have received your letter of the 1st instant, transmitting a communication rom J. L. Burchard, late Indian agent, relative to his accounts as agent at Round 'alley, California.

In your letter you refer to remarks made by Mr. Burchard and desire a statement f the reasons "why his accounts cannot be settled; if he has filed his vouchers as tated, and the moneys disbursed as he alleges, and for which the department will not redit him; also if there is anything in his accounts which show a fraudulent intent n his part."

In reply I have to state that in the examination of Agent Burchard's cash accounts t was found that he claimed credits for money disbursed without warrant of law, viz, ioneys received from sale of government property had been disbursed instead of being eposited in the Treasury as miscellaneous receipts, as required by section 3618, Reised Statutes.

Also funds had been misapplied, in violation of the provisions of sections 2097 and 78, Revised Statutes.

Also that he had made purchases exceeding in amount $1,000 without advertising r the same, contrary to section 7, act of March 3, 1875 (18 Stat., 450).

The disbursements, classified as above, amount to considerable in the aggregate, d credit cannot be given for the same by the accounting officers, for reason that the ansactions were in violation of law.

He has filed vouchers for the same, and the money appears to have been disbursed he alleges. There are, however, quite a number of vouchers in his accounts which

It will be seen from this letter that no reason exists to suspect dishonesty on the part of Mr. Burchard, or that any of the funds of government have been retained.

It is claimed by Mr. Burchard that all moneys that came into hands have inured to the benefit of the government, and, so far as thing appears to the contrary, his claim is true, having filed vouch for all claims, though some of the vouchers are irregular.

This bill simply authorizes the proper accounting officer to settle accounts upon the principles of justice and equity.

Your committee recommend the passage of the bill.

H CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
st Session. } { No. 1151.

USE OF ARMY IN TERRITORIES.

r 3, 1882.—Recommitted to the Committee on Military Affairs and ordered to be printed.

. HENDERSON, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 6085.]

e Committee on Military Affairs, to whom was referred the message of he President of the United States in relation to disorders and lawlessness in Arizona, having considered the same, respectfully report:

That in the opinion of your committee it is expedient to amend section 15 of the act of June 18, 1878, chapter 263, as suggested by the esident in his said message, so as to allow the co-operation with the il authorities of a Territory of a part of the army as a *posse comitatus;* d believing that a necessity exists for such amendment, your committee report the accompaying bill to amend said section fifteen, and ommend the passage of the same.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1152.

RIVER LIGHTS ON THE SAINT JOHN'S RIVER.

MAY 3, 1882.—Referred to the Committee on Appropriations and ordered to be printed.

Mr. PAGE, from the Committee on Commerce, submitted the following

REPORT:

[To accompany bill H. R. 6086.]

The Committee on Commerce, to whom was referred a bill (H. R. 4796) to authorize the establishment of river lights on the Saint John's River, in the State of Florida, beg leave to report the same to the House, with the accompanying substitute, the passage of which is recommended.

This recommendation is based upon the following expression of views of the Light-House Board:

TREASURY DEPARTMENT,
OFFICE OF THE LIGHT-HOUSE BOARD,
Washington, April 20, 1882.

SIR: Referring to your letter of April 19, inclosing a letter from the Committee no Commerce of the House of Representatives, dated April 18, forwarding a number of bills for the opinion of the board, and among them H. R. bill No. 4796, to authorize the establishment of certain lights on Saint John's River, Florida, I have to say that the board finds itself unable to recommend its passage.

The board is of the opinion that if its jurisdiction was extended over the Saint John's River, as it now is over several of the largest western rivers, that it could furnish all the lights needed in this river at a less sum than would be required to establish the permanent structures contemplated in this bill.

The board begs leave to suggest that the desired result could be better attained by passing a bill providing for the extension of its jurisdiction over the river for the establishment of such lights, day beacons, and buoys as may be necessary for the use of vessels navigating that stream; that the board be authorized to lease the necessary ground for all such lights and beacons as are used to point out changeable channels, and which, in consequence, cannot be made permanent, and that ten thousand dollars be appropriated for this work.

Very respectfully,

GEO. DEWEY,
Commander, U. S. N., Naval Secretary.

Hon. the SECRETARY OF THE TREASURY.

TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1153.

IGHT-HOUSE AT OR NEAR THE MOUTH OF THE DETROIT RIVER.

AY 3, 1882.—Referred to the Committee on Appropriations and ordered to be printed.

r. PAGE, from the Committee on Commerce, submitted the following

REPORT:

[To accompany bill H. R. 5444.]

The Committee on Commerce, to whom was referred the bill (H. R. 144) for the construction of a light-house at or near the mouth of the etroit River, beg leave to report the same to the House with an nendment, to add, after the word "Erie," in line 6, the words, "and for ie establishment of a steam fog signal in connection therewith," and ecommend that the same, so amended, do pass.

This recommendation is based upon the following communication om the Light-House Board:

TREASURY DEPARTMENT,
OFFICE OF THE LIGHT-HOUSE BOARD,
Washington, April 20, 1882.

SIR: Respectfully referring to department letter transmitting, for the views of e Light-House Board thereon, H. R. bill No. 5444, providing for the construction a light-house at or near the mouth of the Detroit River, in Lake Erie, and making appropriation of $60,000 therefor, I have the honor to state that the matter of es-blishing a light at the mouth of the Detroit River has heretofore been carefully nsidered by the board, and that in its reports for the years 1880 and 1881 attention as called to the necessity for a light there.

The only light now marking the mouth of the Detroit River is shown from the Bar int (Canadian) light-ship. This is a feeble and uncertain light, entirely inade-iate to the wants of the situation, and of little or no service for guiding between e difficult shoals at the entrance to the river.

A light such as is proposed to be established by the bill would furnish a sufficient and mistakable guide for making the mouth of the Detroit River from any direction.

The interests of the vast commerce passing up the Detroit River demand that the uth of the river should be adequately lighted. A light there of the character con-nplated by the bill would be one of the most valuable on the lakes, and, in the nion of the board, should be established at the earliest day practicable.

n addition to the light, provision should be made for the establishment of a steam signal in connection therewith, and it is respectfully suggested that the bill be nded so as to include this additional and necessary aid to navigation, the pro-ed appropriation of $60,000 being considered sufficient for both.

he bill (H. R. 5444) is herewith returned.

Very respectfully,

GEO. DEWEY,
Commander, U. S. N., Naval Secretary.

he Hon. SECRETARY OF THE TREASURY.

O

'H CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
1st Session. } { No. 1154.

TEXAS AND SAINT LOUIS RAILWAY COMPANY.

MAY 3, 1882.—Referred to the House Calendar and ordered to be printed.

r. MCLANE, from the Committee on Commerce, submitted the following

REPORT:

[To accompany bill H. R. 6087.]

The Committee on Commerce, to whom was referred the bill (H. R. 14) to authorize the Texas and Saint Louis Railway Company of Misuri and Arkansas to construct bridges across the Red, the Ouachita, e Arkansas, and the White rivers, in the State of Arkansas, having d the same under consideration, would respectfully report the accomnying bill as a substitute therefor.

This substitute complies with all the suggestions of the Secretary of 'ar with reference to the construction of bridges across the several vers named therein.

Your committee would therefore recommend the passage of the subtute.

'H CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1155.

BRIDGE ACROSS THE ARKANSAS RIVER.

MAY 3, 1882.—Referred to the House Calendar and ordered to be printed.

. MCLANE, from the Committee on Commerce, submitted the following

REPORT:

[To accompany bill H. R. 3216.]

'he Committee on Commerce, to whom was referred the bill (H. R. 6) to authorize the construction of a bridge across the Arkansas River :he town of Van Buren, Crawford County, Arkansas, having had the ıe under consideration, report the bill back with the following amend- nts, which have been suggested by the Secretary of War, to-wit: By king out all those words between "accessible," in the third line of tion 3, and the word "provided," in eighth and ninth lines of said tion, and inserting the following words: "Navigable point, and the ning on each side of the pivot-pier shall not be less than 160 feet in clear, and as nearly as practicable both of said openings be acces le at all stages of the water; that the spans shall not be less than 10 t above high-water mark, as understood at the point of location, to lowest part of the superstructure of said bridge; that the piers and w-rests of said bridge shall be built parallel with the current at that ge of the river which is most important to navigation, and that no side protection for imperfect foundations be permitted to approach rer than 4 feet from the surface of the water at its extreme low stage, otherwise to encroach upon the channel-ways provided for in this act." so, by inserting after section 3 the following section as section 4: "That railroad companies desiring the use of said bridge shall have and be titled to equal rights and privileges relative to the passage of railway ins over the same, and all the approaches thereto, upon payment of easonable compensation for such use; and in case the owner or own- of said bridge, and the several railroad companies, or any of them, siring such use, shall fail to agree upon the sum or sums to be paid, d upon the rules and conditions to which each shall conform in using d bridge, all matters at issue between them shall be decided by the cretary of War, upon a hearing of the allegations and proofs of the rties." Also, by changing sections 4 and 5 to sections 5 and 6, respec- ely, and by inserting after the word "built," in the second line of d section 5 as changed, the words "or commenced."

With these amendments, your committee recommend the passage of e bill.

O

TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1156.

) INCREASE THE EFFICIENCY OF THE SIGNAL CORPS OF THE ARMY.

MAY 3, 1882.—Referred to the House Calendar and ordered to be printed.

. McCOOK, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 2253.]

e Committee on Military Affairs, to whom was referred the bill (H. R. 2253) to increase the efficiency of the Signal Corps of the Army, respectfully submit the following report:

The committee are forcibly impressed that an efficient and well-trained gnal Corps is absolutely essential to armies in time of war. No orıization has done more with the same number of men and with the me expense than a corps of intelligent and educated signal officers.
The crude methods adopted by the ancients have been improved, til now an army without an efficient Signal Corps would labor under lisadvantage which would render it inefficient for a campaign.
The matter has received the careful attention of all European powers d should demand the serious consideration of Congress.
The corps should be composed of scientific men of high attainment, ıose study of methods used by other armies supplemented by their perience would enable them to devise and invent plans of the highest periority.
In times of peace the duties of the Signal Corps are of the highest portance to the whole people. They are daily notified of approach- ; storms, of probable changes in the weather, and such a corps as is oposed would by study and experience finally be enabled to predict e approach of cyclones, and it is not impossible that they could event- lly devise means to prevent any serious damage by them.
In a country like ours, with a territory of 3,603,884 square miles, this reau in time of peace should be under the War Department.
In Denmark, Sweden, and the Netherlands, which are so eminently ıritime, it is very properly under the naval department.
In Austria it is independent or special.
In France it is controlled by the minister of the interior.
In England it is controlled by the Royal Society.
In Russia it is controlled by the Academy of Sciences.
In our country, with the Signal Corps properly organized and made a rt of the Army, we can have the aid of the Army, and more than that, can have that efficiency and promptness which is the result of mil- ry discipline.
The Signal Corps of the United States was first organized on June 27, 50, by the appointment of Assistant Surgeon Albert J. Myer to the rank

and position of major and Chief Signal Officer of the Regular Army. So efficiently was this service performed, and so essential was it to the Army, that on March 3, 1863, the corps was increased and the chief promoted to the rank of colonel.

Section 22 of the act to increase and fix the military peace establishment of the United States, approved July 28, 1866, provided for one Chief Signal Officer (a colonel) and gave the Secretary of War authority to detail 6 officers, and not to exceed 100 non-commissioned officers and privates, from the Battalion of Engineers.

The number of enlisted men was increased from time to time, and by act of Congress, approved June 20, 1878, was fixed at 450. By this act it was also provided that two sergeants of the Signal Corps might, each year, be appointed second lieutenants.

The act of Congress approved February 24, 1880, added to the Signal Corps 50 privates, and provided that, from and after the passage of the act, the Chief Signal Officer should have the rank and pay of a brigadier-general.

The Signal Corps therefore consists of 1 brigadier-general, 4 second lieutenants, appointed under the act of June 20, 1878, and 500 enlisted men of the grade of engineer soldiers.

There has been no provision of law for any of the intermediate grades of officers of this corps, or for the promotion at any time of such second lieutenants as may be appointed under the existing law.

During the late war the duties of the Signal Corps were solely in connection with the armies, and comprised a system of communications by signals and by field telegraphs which had been invented and adapted by the late General Meyer. It was used extensively by both armies, especially during the later years of the war, and esteemed of great advantage. Similar systems have since that time been put in use in most of the great armies of Europe, and such means of communicating are now regarded as indispensable in modern warfare.

It was owing to this belief that the act of July 28, 1866, fixing the military peace establishment of the United States, provided for the position of Chief Signal Officer and for the detail of officers and enlisted men for that service.

At that time, and for some years subsequently, no meteorological work was contemplated by any corps or branch of the Army, and the requirements of the case were sufficiently met by the plan adopted.

By joint resolution of Congress, approved February 9, 1870, the Secretary of War was authorized and required to provide for taking meteorological observations at the military stations in the interior of the continent and at other points in the States and Territories of the United States, and for giving notice on the northern lakes and on the sea-coast by magnetic telegraph and marine signals, of the approach and force of storms.

On June 27, 1872, the Secretary of War assigned this duty to the Chief Signal Officer of the Army, under whose control it has since remained, and from this beginning the present system of observations and reports for the benefit of commerce and agriculture has grown up.

These reports have constantly increased in number and variety, are made three times each day, and include all conditions of weather, of temperature, of rainfall, and of barometric changes throughout the country, and are promptly given to the public, while special warning of storms on the northern lakes and on the sea-coast are furnished as far in advance as possible, and save annually heavy losses to commerce. Approaching cold waves, known in the West as "northers," are predicted

arnings of frosts are sent out for the benefit of sugar planters and ange growers, and during the past year an extensive system of obser- ations and reports for the benefit of cotton planters was put in opera- on, which it is contemplated to extend to the wheat-growing interests the northwest as soon as possible.

Public confidence in these reports and in the weather forecasts has ntinually increased, and their character has improved yearly, until at esent there are few, if any, classes of industry which do not receive rge benefit from them. Statistics show that the storm warnings given the lakes result in a saving to commerce of nearly $1,000,000 each ar.

Not only has the work of this corps conferred large benefits upon the dustries of the country, but it has given American meteorology a high anding in other countries.

The committee believe that this service is now indispensable to the ublic, and that it should be continued, and improved as further obser- ation and experience may suggest; that this can be best accom- lished by the work remaining under military control and by a more mplete organization of the Signal Corps, whereby the officers required perform the duty may be placed where they will remain permanently pon it, and by means of which the present defective system of tem- orary details may in future be avoided.

There are now on duty with the Signal Corps 16 officers detailed from giments, who are liable to be relieved and returned to their proper uties at any time. The course of preparatory study necessary before officer is fitted for weather predictions requires two years, and even en subsequent experience is most valuable and necessary. The com- ittee believe that the duty requires the best talent and training, and n be best performed by officers whose positions are permanent; that e value of the weather predictions is recognized by the country, as is idenced by numerous resolutions of boards of trade, chambers of mmerce, and similar organizations representing all sections; that the eat industries of the people require and demand that this service all be continued and improved, and that this can best be done by ap- inting into the Signal Corps the necessary officers and thus comple- ng its organization.

The officers now on duty with the corps are not sufficient for the ork demanded, and the number should be increased.

The committee therefore, after a careful examination of the facts, nd in view of the foregoing, recommend that the accompanying bill e passed, with an amendment.

NGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
ssion. } { No. 1157.

RETIREMENT OF ARMY OFFICERS.

3, 1882.—Referred to the House Calendar and ordered to be printed.

DERSON, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 6088.]

ommittee on Military Affairs, to whom were referred the follow-
viz: Bill (H. R. 2569) to regulate promotion in and to increase
iency of the Army of the United States; bill (H. R. 1307) to
ections 1244 of the Revised Statutes of the United States, chap-
le 14, relating to the Army; bill (H. R. 1573) in relation to the
nt of Army officers; bill (H. R. 206) to amend sections 1244
3 of the Revised Statutes, relating to the retirement of Army
and also a large number of petitions relating to the same sub-
t is, the retirement of officers of the Army—having fully con-
aid bills and petitions, beg leave to report the same back to the
vith a substitute for said bills, and to recommend the passage
ubstitute, H. R. 6088.

ommittee, after a careful consideration of the subject, are of
ion that the highest and best interests of the Army, and espe-
the officers of the Army, require a change to be made in the
etirement from active service, and that instead of leaving it to
etion of the President, as the law now does, it should be made
, under the law, to retire all officers of the Army at the age of
years.

elieved by your committee that such a change in the law, mak-
etirement of officers of the Army at the age of sixty-two years
ory, instead of discretionary, will relieve the President from
barrassment at times when called upon to exercise the discre-
ower vested in him. It will remove any and all complaints of
m in retiring one officer to promote another, and will relieve the
t in many cases from the importunities of friends of officers
desire to remain the service after they are sixty-two years of
will also enable officers to look forward with certainty to the
n they will retire from active service, without any reflection
em, or any question of their ability to discharge their duties
on account of old age. For these considerations it is desirable
law of retirement from active service of officers of the Army
made, like that of the Navy, compulsory at the age of sixty-
s.

ur committee would urge the passage of the proposed substitute
ns far more important than those above stated. It is believed
committee that the enactment of a law making the retirement

of officers of the Army from active service compulsory at the age of sixty-two years will add greatly to the strength and efficiency of the Army. It will give new life and hope to younger officers, whose activity and ability for usefulness will be quickened and strengthened by opening up to them a greater certainty of honorable promotion to the higher ranks of the service before old age unfits them for distinction. The young blood of the Army is absolutely chilled by the slowness of promotion. And officers of ability, capable of great activity and usefulness, serving from year to year in the lower grades of the service for so many years, seeing but little, if any, hope of promotion to the higher and more honorable positions in the Army, naturally lose their energy and ambition, and in too many cases become inefficient, idle, and dissipated, and are finally tried by court-martial and dismissed from the service on account of drunkenness. Officers serve for years as lieutenants and captains, and, in some cases at least, before reaching the rank of colonel are absolutely incapacitated from old age or long service to take command of their regiments in the field for any active service. And in such cases, of course, younger and more active officers must perform their duties, and without receiving either the rank or pay. To make the Army strong and efficient, you must give the younger and the more active, energetic, and vigorous officers a chance. You must inspire them to greater usefulness and efficiency by giving to them a better hope and greater certainty of promotion to the higher and more distinguished grades of the service before they are unfitted by old age, if not by loss of energy and ambition, for distinction.

While the substitute proposed may not, and in the opinion of some of the ablest officers of the Army does not, go as far as it should to make the Army efficient, by keeping the blood young and vigorous, it will, in the opinion of your committee, result in great good to the service.

Your committee believe that the passage of the proposed substitute, or at least a law making retirement compulsory at the age of sixty-two years, will not only meet the approval of the great body of the officers of the Army, but is demanded by the best interests of the service, and hope the substitute proposed by the committee will pass.

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1158.

CONDEMNED CANNON FOR LADIES' SOLDIERS' MONUMENT SOCIETY OF PORTSMOUTH, OHIO.

MAY 3, 1882.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. HENDERSON, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 5321.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 5321) to donate four condemned cannon to Ladies' Soldiers' Monument Society of Portsmouth, Ohio, having considered the same, respectfully report the bill back and recommend that it pass.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1159.

ALBERT F. PADEN.

MAY 3, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HENDERSON, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 1341.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 1341) to remove the charge of desertion from the military record of Albert F. Paden, late a private in Company D, Fifty-fifth Regiment Illinois Volunteer Infantry, having considered said bill, beg leave to report the same back, and recommend its passage with the following amendment: Strike out the words "and pay," in the eighth line of said bill.

It appears, from the affidavit of David H. Frisbie, who was at the time provost marshal, that this soldier voluntarily came to him and informed him that he was an enlisted soldier in the Fifty-fifth Regiment Illinois Volunteers, and had left the Army without leave, and wished to return and make good his time; that said provost marshal accepted his proposition and retained him for a time to assist him in looking up deserters, and that after serving him in that way he put him aboard the cars for his destination, and, as he was informed and believes, he arrived at his regiment in good time and faithfully served out his time. The letter of the Adjutant-General of the Army of the United States as to the character and military history of this soldier, which accompanies this report, is made part of it. Your committee are of the opinion that this soldier should be relieved from the charge of desertion.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, February 12, 1880.

SIR: I have the honor to acknowledge the receipt of your letter of the 3d instant, requesting the military history of Albert F. Paden, formerly a private of Company D, Fifty-fifth Illinois Infantry, and in reply thereto to inform you that the records of this office show Paden to have been enrolled September 27, and mustered in October 31, 1861, to serve three years. He appears to have been present with his command up to the 31st December, 1862, but on the roll for January and February, '63, is reported as having deserted January 10, 1863, at Arkansas Post, and his name is dropped from the following rolls to January 31, 1864, when he is reported "returned from desertion January 1, 1864." On the subsequent company rolls, to the date of its muster out, he is reported present or otherwise accounted for. He was mustered out on individual muster-out roll June 17, 1865, on which appears the following remark: "Ten months' pay to be stopped by Special Order No. 20, January 23, '64, General M. L. Smith, for desertion from the 10th day of January, 1863, to the 10th day of November, 1863."

I am, sir, &c.,

E. D. TOWNSEND,
Adjutant-General.

Hon. THOS. J. HENDERSON,
House of Representatives.

C

I CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
st Session. } { No. 1160.

CANNON TO THE TOWN OF STONEHAM, MASS.

3, 1882.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

HENDERSON, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 5609.]

'he Committee on Military Affairs, to whom was referred the bill R. 5609) donating condemned cannon to the town of Stoneham, ss., having considered the same, respectfully report the bill back, l recommend that it pass.

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1161.

TO DONATE FOUR PARROTT GUNS TO THE CITIZENS OF WATERVILLE, ME.

MAY 3, 1882.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. HENDERSON, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 5302.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 5302) to donate four Parrott guns to the citizens of Waterville, Me., having considered the same, respectfully report the bill back, and recommend that it pass.

O

TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1162.

JAMES M. BACON.

Y 3, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

. HENDERSON, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 2894.]

e Committee on Military Affairs, to whom was referred the bill (H. R. 2894) for the relief of James M. Bacon, having considered the same, respectfully report:

A bill identical with this one has passed the Senate at the present ssion, and is now on the Speaker's table. The Senate Committee on ilitary Affairs, reporting that bill, adopt the report of their predecessors, e military committee of the Senate in the Forty-sixth Congress, subitted by Senator Plumb, and which your committee here adopt as folws:

That in the month of June, 1864, Brevet Major-General Alfred Sully, in command of e first military district of the department of the Northwest, organized an expedi-n against the hostile Sioux Indians in the Upper Missouri River country. About the e said command started on its march, James M. Bacon, late first lieutenant First giment Dakota Volunteers, cavalry, was by General Sully assigned to duty as act-g assistant quartermaster for said expedition, and he joined the command at Fort ndall. There were a large number of citizen employés with the expedition. With e concurrence of General Sully, a man by the name of William S. Linn, who had en in the employ of the quartermaster's department at Saint Louis, was employed similar service with said command; and as said Bacon had had no experience in ch duties, and, as stated by himself, had little aptitude for them, almost the entire siness, so far as the clerical affairs of office were concerned, was confided to this rk. He was esteemed both honest and competent, but addicted to occasional exsive dissipation.

The expedition was not supplied with quartermaster's funds, and a pay-roll was de out, and by order of General Sully a sufficient sum was borrowed of the sutler pay the employés on their arrival at the Yellowstone River. The same process was eated at Forts Rice, Sully, and Randall on the return trip. The amount so paid t was reimbursed by Bacon on the arrival of the command at Sioux City from funds nished by the district quartermaster, upon the presentation of a proper pay-roll and eipts. Lieutenant Bacon, with the assistance of his clerk, then set about the work preparing his accounts for transmissal to the proper accounting officers at Washing-, and when so prepared in duplicate they were sent by the hands of the clerk (Linn) Dubuque, then General Sully's headquarters, for his approval. The general, how-er, being absent in Chicago on special duty, Linn proceeded to that place and preted the accounts to General Sully, by whom they were approved. From that time this Lieutenant Bacon states, and all the facts corroborate his statement, that he s neither seen nor heard of said Linn directly, nor has he ever been able to give any ce of the missing papers.

n May, 1865, only some two months subsequent to said approval of the vouchers, neral Sully certified to the fact of said examination and approval, and, further, at, to the best of his recollection and belief, these papers and vouchers closed the ounts of said Lieutenant Bacon. Major William Myers, quartermaster United

States Army, states that Lieutenant Bacon's account of the transaction, which is much more in detail than the foregoing, is correct, except that he (Myers) had no knowledge of the special assignment of Linn to duty as clerk with the expedition. Hon. Sylvester Bagg, now, or at the time of the making of his affidavit, judge of the circuit court of the ninth judicial district of Iowa, but at the time of the transactions referred to chief quartermaster of the military district, testifies that Lieutenant Bacon was assigned to duty with the expedition at his (Bagg's) instance; that he furnished Lieutenant Bacon the funds as stated above, and that the pay-rolls and accounts were correct and properly receipted; that subsequently Lieutenant Bacon prepared his returns for submission to the accounting officers of the government, and that he (affiant) personally and carefully examined the same and found that they were correct and corresponded with the reports submitted to him, and that they showed that the funds had been properly expended by Bacon, as shown by the receipted vouchers, filed with the returns; that he notified General Sully of such examination; that said accounts were sent to General Sully, as stated above, and that subsequently General Sully told him (Bagg) that he had examined and approved the same. Affiant further states that to his knowledge the clerk, Linn, never returned to Sioux City, nor in any manner accounted for the papers intrusted to him; and that it was currently reported and believed that said Linn "got on a drunken spree and absconded," and that he (affiant) has not since seen or heard of him. This affidavit is dated November 14, 1878. An affidavit of General Sully is also submitted, dated August 5, 1878, which is corroborative of the statements made in the foregoing. He says "that it is impossible for him at this late date to recollect the number of citizens employed by Lieutenant Bacon, or the amounts paid them, but he knows that by Lieutenant Bacon's accounts the number and prices paid were correct.

The Quartermaster-General and Secretary of War both recommend that Lieutenant Bacon be relieved of this accountability. The committee are entirely satisfied from all the testimony that the amount for which this claimant is held was properly disbursed and accounted for, and that the failure of the returns and vouchers to reach their destination at Washington was through no fault of his. They find that he is not indebted to the government in any sum whatever; and further, they do not hesitate to express their belief, from all the evidence submitted, and all the facts brought to their knowledge, that Mr. Bacon is a man of undoubted integrity, and that his claim to be relieved of this recorded accountability is one that commends itself to the prompt action of Congress.

The committee therefore recommend the passage of the bill.

This, which your committee believe, from the evidence, to be a fair and correct statement of the case, shows that there is no money claimed to be due to or from the government in this case, and the payment of no money is contemplated, but only relief from liability for lost vouchers, in accounts fully settled. The passage of the bill is therefore recommended.

O

H CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
st Session. } { No. 1163.

DITIONAL RIGHTS TO HOMESTEAD SETTLERS ON PUBLIC LANDS IN RAILROAD LIMITS.

MAY 3, 1882.—Referred to the House Calendar and ordered to be printed.

. T. M. RICE, from the Committee on the Public Lands, submitted the following

REPORT:

[To accompany bill H. R. 3699.]

he Committee on the Public Lands have had under consideration bill (H. R. 3699) to amend an act entitled "An act to grant addi- al rights to homestead settlers on public lands in railroad limits," roved March 3, 1879, which was referred to said committee, and ort the same back, with the following amendments, viz:

. Insert after the word "may," in the eighth line, and before the word all," in the twelfth line, the words *be included within the limits of any nt of public lands to any railroad company, or to any military road com- y, or to any State in aid of any railroad or military road, and which now, or may hereafter, become subject to entry under the laws of the ted States.*

Add, as section 4, the following words:

C. 4. That persons who have heretofore made homestead entries of less than one lred and sixty acres, whose entries were made in good faith, but not perfected in the seven years allowed by law, may make a second homestead entry, which r, together with the original and forfeited entry, shall not exceed one hundred ixty acres.

our committee respectfully recommend the adoption of said amend- ts, and that the bill, when so amended, do pass.

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1164.

PUBLIC LANDS.

MAY 3, 1882.—Laid on the table and ordered to be printed.

Mr. T. M. RICE, from the Committee on the Public Lands, submitted the following

REPORT:

[To accompany bill H. R. 842.]

The Committee on the Public Lands, to whom was referred the bill (H. R. 842) "to amend an act entitled 'An act relating to the public lands of the United States,' approved June 15, 1880," have had the same under consideration, and report the same back to the House with the recommendation that the same do not pass.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1165.

TO REDUCE THE PRICE OF PUBLIC LANDS WITHIN RAILROAD LIMITS.

MAY 3, 1882.—Laid on the table and ordered to be printed.

Mr. T. M. RICE, from the Committee on the Public Lands, submitted the following

REPORT:

[To accompany bill H. R. 834.]

The Committee on the Public Lands, to whom was referred bill H. R. 834, "A bill to reduce the price of public lands within railroad limits," have had the same under consideration, and report it back to the House, with the recommendation that it do not pass.

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1166.

EXTENDING JURISDICTION OF JUSTICES OF THE PEACE IN CERTAIN TERRITORIES.

MAY 3, 1882.—Referred to the House Calendar and ordered to be printed.

Mr. DUGRO, from the Committee on the Territories, submitted the following

REPORT:

[To accompany bill H. R. 3506.]

The Committee on the Territories, to whom was referred the bill (H. R. 3506) extending jurisdiction of justices of the peace in certain Territories, respectfully report:

That the effect of this bill is to increase the jurisdiction of justices of the peace in the Territories of Washington, Idaho, and Montana to any matter in controversy where the debt or sum claimed does not exceed $300; the jurisdiction is now limited in any matter as aforesaid to $100.

Your committee therefore report said bill back to the House and recommend its passage.

O

TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1167.

EMORIAL COLUMN AND CENTENNIAL CELEBRATION IN NEWBURG, N. Y.

Y 3, 1882.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

r. DE MOTTE, from the Committee on Public Buildings and Grounds, submitted the following

REPORT:

[To accompany joint resolution H. R. 176.]

e Committee on Public Buildings and Grounds, to whom was referred the joint resolution "authorizing the Secretary of War to erect at Washington's headquarters, in the city of Newburg, N. Y., a memorial column, and to aid in defraying the expenses of the centennial celebration to be held at that city in the year 1883," *having had the same under consideration, submits the following report:*

The events intended to be commemorated by the proposed centennial lebration at Newburg, in 1883, are of a broad and national character It was here, on the 19th day of April, 1783, that the formal proclamaon of peace was made, and it was here, on the green in front of "Washgton's headquarters," that the patriot army was disbanded on the 3d ay of November, 1783. On the 25th day of November, 1783, commonly alled Evacuation Day, the British troops took to their transports and llenly quit the land they had come to conquer and oppress.

It was at Newburg, or its immediate vicinity, about two miles from e present city, that the army was encamped after the victory at Yorkwn. Here those of the patriots who died during the encampment ere buried. Rude mounds still indicate the spot, but no stone marks eir resting place.

It was here, in the log building known as the "Temple," that Vashgton met to confer with his officers upon the famous "Newburg letrs." The army, without pay and without clothing, had grown mutins at the continued neglect of Congress to provide for their wants. In is emergency it was proposed to form a limited monarchy and proim Washington dictator, with, eventually, the title of king. The oposition was formally made to him, but was promptly and indignantly jected. It was here that Washington, Knox. Greene, Gates, St. Clair, inton, Wayne, and the Baron Steuben had their headquarters.

There is a peculiar fitness in the place chosen for the celebration of ese important national events. Newburg and vicinity, from the very mmencement of the war to its close, was the scene of numerous other table incidents and events. The Highland Pass, as it is called, was garded as the key to the whole struggle. The object of the British as to get possession of the Hudson, and by uniting the forces of Burgoyne in the north with those of Howe in the south, cut off the Eastern om the Middle and Southern States. To checkmate the enemy Washgton had taken early measures by throwing up forts on the mountain

spurs overlooking the river. The passage of vessels was to be obstructed by chains, booms, and *chevaux de frise* stationed at the narrow points.

To secure control of the Highland Pass the British resorted to both assault and stratagem. The capture of Forts Clinton and Montgomery and the treason of Arnold are incidents of this region, which, with scores of others, make it rich with Revolutionary interest.

Among the other reasons for the proposed celebration may be given the fact that the year 1883 will furnish the last opportunity for commemorating by centennial ceremonies any of our Revolutionary events and it so happens that the events it will commemorate are unsurpassed in grandeur and significance by any that preceded them.

During the last six years we have had several centennial celebrations beginning with that at Bunker Hill and ending with that at Yorktown. None of these celebrations were in honor of Washington. They commemorated military events. The time has now come to pay a fitting tribute to Washington, not as a military hero but as a patriot. By his refusal to accept the crown he saved to America the liberties won by the sword, and set an example of lofty patriotism which has probably never been equaled, certainly never surpassed in the history of mankind.

No detailed plan for the proposed celebration has been perfected as yet. It will be left to the joint committee of Congress to be appointed under the resolution. A general idea, however, of what would be proper to the occasion has been submitted.

It is proposed to erect at Washington's headquarters, on the bluff overlooking the river, a plain shaft or column with inscriptions commemorative of the most important events occurring at this point. For this purpose, it is thought, the sum of $10,000 will be adequate.

It is further proposed to purchase the site on which the temple stood and as much of the surrounding ground as may be deemed necessary and erect thereon a structure of frame or logs in the original style of the temple.

It is also proposed to buy the land in which the Revolutionary veterans are interred and have it substantially inclosed, to the end that it may be preserved from future desecration.

In addition, it is proposed to have, on some day in the year 1883 to be hereafter designated, a centennial jubilee at Washington's headquarters. Military detachments from such of the original States as had troops at the encampment in 1783 are to be invited. The transportation and subsistence of these delegations will be paid out of the general fund.

To make the land purchases and defray the necessary expenses of the celebration, it is estimated that the sum of $50,000 will be required. Of this amount the city of Newburg has already raised $5,000 by tax and the citizens have promised an additional $5,000 by voluntary subscription. A bill is now pending in the legislature of the State of New York for an appropriation by the State of $25,000 more.

Your committee is of opinion that a memorial shaft, not to exceed $10,000 in cost, should be erected by the general government, and that the sum of $25,000 should be appropriated to pay for such shaft and aid in defraying the expenses of the celebration and for the other purposes mentioned in the preamble.

The joint resolution is therefore reported back with a recommendation that the blank on page 3, section 3, line 1, be filled with the words "twenty-five," and that, as thus amended, it do pass.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1168.

CONSOLIDATION OF RAILROADS IN TERRITORIES.

MAY 3, 1882.—Referred to the House Calendar and ordered to be printed.

Mr. J. S. ROBINSON, from the Committee on Pacific Railroads, submitted the following

REPORT:

[To accompany bill H. R. 5219.]

The Committee on Pacific Railroads, to whom was referred the bill H. R. 5219, report the same back and recommend its passage.

The committee believe that one object in chartering railroads is to subserve the public interests. That the consolidation of continuous and connecting lines of railroads affords increased facilities for the transportation of passengers and freight. Experience has shown that consolidation is not in the interest of monopoly, but is in the interest of the people. A report recently made by the commissioner of railroads in Ohio for 1881 shows that the cost of transportation of freights has been reduced from 2½ cents per ton per mile in 1869 to less than 1 cent per ton per mile in 1881. Ohio is referred to in this connection from the fact that it was the first State in the Union (1852) to enact a general law authorizing the consolidation of continuous and connecting lines of railroads with continuous and connecting lines of railroads in other States.

7TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1169.

EDWARD L. WALKER.

[AY 3, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Ir. SPOONER, from the Committee on Patents, submitted the following

REPORT:

[To accompany bill H. R. 6089.]

'he Committee on Patents, to whom was referred the bill (H. R. 1852) for the relief of Edward L. Walker, have considered the same, and respectfully report:

Edward L. Walker, a farmer, residing at Benford's Store, Pa., obained letters patent on the 6th day of September, 1864, for what is nown as the harpoon horse hay fork.

As shown by his statement, and corroborated by parties using these orks, they are valuable labor-saving implements, not only relieving ie farmer of the labor of pitching hay by hand in barns and on stacks, ut also enable the work to be done in much less time, thereby freuently preventing the loss that would otherwise occur from the hay etting wet by sudden storms.

Previous to this invention the work was mostly done by hand, whereas y means of the invention it is now done by animal power. The value f the invention to the country is shown to be very great.

Owing to sickness and want of means, Walker was unable to manuacture the article himself, and therefore assigned his patent to parties aving the necessary means, under an agreement on their part to manuacture them and pay him a royalty; but instead of carrying out the greement these parties manufactured a fork differing slightly from his, ut embodying his invention, and refused to reassign his patent.

In addition to this, his patent was twice put into interference with pplications of subsequent parties who claimed the invention, the cost f which, together with his other expenses, amounted to over two thouand and fifty dollars.

It is shown to the satisfaction of the committee, by the affidavits of isinterested parties, and by the certified copies of the records of the atent Office, that Walker did all in his power to introduce his invenion and realize therefrom, and that his failure to realize an adequate emuneration was from no fault of his.

It thus appears that here is an inventor who by his invention has conerred upon the public great benefits, and who is a loser thereby to the mount of over two thousand dollars.

The public has had the benefit of his invention and has never paid nything therefor.

It is further shown that the price of the fork has been very much reduced of late years, and that the public cannot be made to pay more for it, because there are several other and competing forks now on the market which are free to any one to manufacture.

The committee therefore recommend the passage of the substitute bill, submitted herewith.

O

TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1170.

RALPH P. FORD.

AY 3, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

r. JOYCE, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 984.]

e Committee on Invalid Pensions, to which was referred the bill (H. R· 84) for the relief of Ralph P. Ford, has had the same under considera· ion, and begs leave to submit the following report:

'he evidence on file in the Pension Office is fully set forth in the re· 't made to the Forty-sixth Congress, which this committee has)pted as its own, including the recommendation therein made, in rds as follows:

'he said Ford was a private in Company K, Third Missouri State Cavalry, from 12d day of September, 1863, till discharged, July 13, 1865.

Ie alleges that while in said service and in line of duty he contracted chronic patitis while scouting in the swampy regions of Southeastern Missouri in the month March, 1864; that he is still afflicted with said disease, and is unable, on that ac· unt, to obtain a subsistence by manual labor.

Lieut. Enoch Pope testifies that claimant was sound when enlisted, and free from e disease for which he was discharged; and that claimant contracted the disease r which he claims pension in the military service of the United States by reason of tigue and exposure incidental to the same.

Claimant affirms that he is unable to procure the testimony of his regimental sur· on, because he does not know where said surgeon now resides.

Dr. Glen testifies that he has critically examined claimant and finds him with patitis of long standing. In another affidavit he stated that he had been well ac· ainted with claimant for six or seven years; treated him in 1868 for disease of the 'er; disability had continued up to that time—January, 1879—as far as he could termine. He says claimant is a physician in good standing and has treated himself.

Dr. Henry J. Smith testifies that he has critically examined claimant and finds him eased by hepatitis of long standing.

Dr. Edward Hubbard testifies that in 1866 and 1867 he treated claimant for disease the heart and lungs; and he also states that he treated him during the same time the particular disease for which he claims pension.

Lieutenant Pope testifies that he has been intimately acquainted with claimant ce his discharge in 1865, and knows he was suffering from chronic hepatitis after return from the Army. He also states claimant treated himself for some time after charge and is now in very bad health.

The War Department contains no record of the alleged disability.

Dr. Patrick Gilroy certifies under date January 15, 1870, that claimant's disability :otal and continuous "chronic hepatitis, with enlargement of the left lobe of the er, extending to the mesian line of the abdomen and considerably below the false s; tenderness on percussion over the whole region of the liver. There is sallow· ss of the complexion, languor and lassitude, and remarkable depression of spirits; ere is chronic constipation with occasional severe attacks of diarrhea, the sequel of ronic diarrhea contracted by exposure in line of duty."

The claim was rejected because it was barred under section 4717, Revised Statutes, ich has been repealed.

The committee therefore recommend that the bill do pass.

O

H CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
st Session. } { No. 1171.

HENRY N. GUNN.

r 3, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

. JOYCE, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 2635.]

Committee on Invalid Pensions, to which was referred the bill (H. R. 635) granting an increase of pension to Henry N. Gunn, has had the same nder consideration, and begs leave to submit the following report:

unn received a gunshot wound of left leg at battle of Antietam, ryland, September 17, 1862, for which he is in receipt of pension at rate of $6 per month. An application for increase, filed December 879, has been rejected by the Pension Office because, in the opinion he medical reviewers, the disability does not entitle the pensioner to igher rate of pension. He asks Congress to increase his pension to per month.

he medical examination of pensioner, had under his claim for increase, ws that the ball struck and entered left leg in front at middle of ur, injuring that bone (several fragments of which were discharged), l made its exit on inner side of thigh. Constant lameness and inaity to be on feet any length of time for manual labor or walking. ere is an increase of muscular atrophy and numbness along the lower lf of the femur since last examination (July 30, 1878), when rated by examining surgeon at $8 per month.

In the judgment of this committee the pensioner is entitled to a larger nsion than that allowed by the Pension Office, but not to the amount ked for in the bill, as the disability is not equivalent to the loss of a ub, for which the amount asked for is provided under the general law. Believing that $10 per month would be a rate commensurate with the gree of disability shown to exist, the committee recommends that the ord "eighteen" in line six of the bill be stricken out, and the word *ten* serted instead, and that the bill thus amended do pass.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1172.

NORTON L. NEWBERRY.

MAY 3, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. JOYCE, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 2634.]

The Committee on Invalid Pensions, to which was referred the bill (H. R. 2634) for the relief of Norton L. Newberry, has had the same under consideration, and begs leave to submit the following report:

Newberry, while serving as a private in Company A, Fourth Regiment United States Light Artillery, received a gunshot wound of left arm in battle at Gettysburg, July 3, 1863, necessitating amputation of the limb below the elbow, for which he was pensioned at $8 per month from date of discharge, at $15 from June 6, 1866, and at $18 from June 4, 1872, at which rate he is now paid.

In addition to the loss of the arm, pensioner is suffering to some extent from asthma, the origin of which in the service is clearly established. But because asthma does not exist in a degree sufficient so as to disqualify him for the performance of any manual labor, the Pension Office is debarred from allowing pension at a rate greater than that provided by law for the loss of the arm below the elbow. Hence the rejection of the claim for increase.

In the judgment of this committee the petitioner is entitled to pension for asthma in addition to that received for the loss of the arm, and therefore reports favorable on the bill, and recommends that it do pass as amended.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1173.

JAMES R. GORDON.

MAY 3, 1882.—Laid on the table and ordered to be printed.

Mr. JOYCE, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1544.]

The Committee on Invalid Pensions, to which was referred the bill (H. R. 1544) granting a pension to James R. Gordon, finds that in pursuance to special act of Congress approved March 3, 1881, pension has been granted said James R. Gordon, and therefore returns said bill, and asks to be discharged from its further consideration.

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1174.

CEPHAS E. ANDRUS.

MAY 3, 1882.—Laid on the table and ordered to be printed.

Mr. JOYCE, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1545.]

The Committee on Invalid Pensions, to which was referred the bill (H. R. 1545) granting an increased pension to Cephas E. Andrus, finds that the increase asked for has been allowed by the Pension Office, and therefore returns said bill, and asks to be discharged from its further consideration.

'H CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
ist Session. } { No. 1175.

CHARLES H. DAY.

MAY 3, 1882.—Laid on the table and ordered to be printed.

. CABELL, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 3133.]

e Committee on Invalid Pensions, to which was referred the bill (H. R. 3133) granting arrears of pension to Charles H. Day, has had the same under consideration, and begs leave to submit the following report:

Day is in receipt of pension at $24 per month, under special act of ngress, approved May 25, 1878, for gunshot wound of left arm. This e was granted in lieu of $17 per month allowed him under the gen- law in accordance with the actual degree of disability existing. He ts that the difference between $17 and $24 be given him from date of charge to the date when the latter rate commenced under the spe- l act.

n view of the decided stand taken by Congress against the allowance rrears, the committee reports adversely on the bill, and asks to be harged from its further consideration.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1176.

ALICE DEKALB SHATTUCK.

MAY 3, 1882.—Laid on the table and ordered to be printed.

Mr. CABELL, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 4137.]

The Committee on Invalid Pensions, to which was referred the bill (H. R. 4137) for the relief of Alice DeKalb Shattuck, has examined the papers on file in the Pension Office, and finds that she was pensioned as the widow of Lucius H. Shattuck, late a hospital steward, United States Army, at $8 per month, from date of the soldier's death, June 29, 1877.

The relief asked for is to give her pension from date of her late husband's discharge, February 24, 1867, to date of his death. As he did not apply for pension during his life-time, she is not entitled under the law to pension on his account during that period, and there being no good reasons apparent why this should be made an exceptional case, the committee reports adversely on the bill, and asks to be discharged from its further consideration.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1177.

JOHN F. ELLIS.

MAY 3, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MATSON, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 4888.]

The Committee on Invalid Pensions, to whom was referred the bill H. R. 4888, have had the same under consideration, and beg leave to report as follows:

This pensioner is pensioned on account of double hernia. At this time he is rated at $24 per month, the highest rate for such disability known to the law and the rate given for a total incapacity for the performance of any manual labor. The medical examinations show that his scrotum measures 13 inches in length, and 36 inches in circumference. And it is further certified that by reason of certain complications existing in such cases, surgical aid is frequently necessary to prevent strangulation. This is an extreme case of the kind. The pensioner asks an increase to $50 per month. The committee are of the opinion that he ought to have $36, and recommend that the bill do pass with this amendment: Strike out the word "fifty," in line 5 of said bill, and insert the words "thirty-six."

ONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 1178.

NICHOLAS HIBNER.

MAY 3, 1882.—Laid on the table and ordered to be printed.

ATSON, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 941.]

ommittee on Invalid Pensions, to whom was referred the bill H. R. have had the same under consideration, and beg leave to report as ws:

pensioner was granted a pension by special act of Congress 17, 1866, at the rate of $8 per month, and subsequently by general creased to $12 per month. The original pension was granted for a ot wound of right leg received at a time when he was not in the y service of the United States. He now asks an increase to $24 nth on account of a dislocation of a hip joint, occurring in the year t which time he does not pretend to have been in the military e. The favorable action of Congress in this case in granting the al pension is all that should be asked or expected by this pen- for injuries occurring when he was not in the military service; so mmittee report adversely upon said bill, and ask that it be laid he table.

O

TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1179.

WILLIAM H. CROOK.

Y 3, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

r. WILLIAM G. THOMPSON, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 6090.]

e Committee on Claims, to whom was referred the bill (H. R. 904) for the relief of William H. Crook, having had the same under consideration, report:

That they find a similar bill, being bill S. 696, was referred to the enate Committee on Claims, who, after examining the facts, on the th day of March, 1882, reported the bill back, accompanied by a re- rt, No. 350, recommending that claimant be allowed in full the sum of ,000.

Your committee adopt said report and the said bill reported by said enate committee:

By the act of July 4, 1836 (R. S., sec. 450), Congress authorized the President to ap- int a secretary with the title of "secretary to the President to sign land patents," a salary of fifteen hundred dollars per annum. This officer was continued down 1878, having no other duty imposed upon him except to sign, in the President's me, the patents issued by the government on the sales and grants of public lands. der the act above cited this officer, although in name a secretary to the President, s, in fact, and was recognized by the law, as an officer of the Land Department, d during the greater part at least of the period above stated he occupied a room d desk in the General Land Office, having no duties to perform and no place at the ecutive Mansion.

By act of June 20, 1878 (Statutes, vol. 20, p. 183), the appropriation for payment of salary of this officer was omitted, and the President was directed to designate one his executive clerks to perform the duty of signing land patents.

Mr. William H. Crook was then, and had been since 1871, an executive clerk, acting disbursing officer of the Executive Mansion, and also in charge of the reception room. l of these duties he has continued to perform down to the present time. In addition them he was designated by the President July 1, 1878, as secretary to sign land tents, and since that time all the patents issued on sales and grants of public lands ve passed under his hand.

The number of patents issued since July 1, 1878, has averaged about thirty thousand h year, and has steadily increased. The labor of the secretary in executing same s been very onerous, each patent having two signatures attached, and all having to checked off and accounted for. On account of his regular duties at the Executive ansion, Mr. Crook has been compelled to perform most of this extra work of signing tents out of office hours; but, notwithstanding this fact, we are assured that the rk has been done more promptly and efficiently than when an officer was charged th the performance of this duty alone. In fact Mr. Crook has, in addition to the er duties of his position, since July 1, 1878, performed, without compensation in y form, labor for which from 1836 to 1878, the government paid fifteen hundred llars per annum.

We attach hereto, as exhibits, letters from Hon. J. A. Williamson, late Commis- uer of the General Land Office, and Hon. W. K. Rogers, private secretary to Presi-

dent Hayes, both of whom, from their official positions, were familiar with the labor performed by Mr. Crook, and the time and manner of its execution.

It seems to your committee that he is in justice and equity entitled to a fair compensation.

Your committee therefore recommend that the bill be passed with the following amendment, viz: In line six strike out the word "six," and insert in lieu thereof the word "four."

WASHINGTON, D. C., *September* 30, 1881.

SIR: Your note of this date is at hand. I fully agree with you that you should have extra compensation for signing land patents. Before this additional duty was assigned to you the President's secretary to sign land patents was allowed fifteen hundred dollars a year for that service, and I think the service was worth the amount. The responsibility of the position, in addition to the clerical labor, is very considerable, and should be paid for. I think you are fully entitled to extra compensation, and sincerely hope that it may be given you.

Very sincerely, yours,

J. A. WILLIAMSON.

Col. W. H. CROOK,
Executive Mansion, City.

WASHINGTON, D. C., *November* 18, 1881.

DEAR SIR: I entirely agree with you that you should receive extra compensation for signing land patents. During the four years while I was private secretary to the President your regular duties as executive clerk and disbursing officer were sufficient to keep you employed all the time during office hours. The additional service you rendered in signing land patents was necessarily performed out of office hours, the greater part of it night work. Upon the omission by Congress (the act of June 30, 1873) of the usual provisions for the salary of the secretary of the President to sign land patents, and the requirement that the President should designate one of the executive clerks to discharge the duties of the office, you were selected by President Hayes because of your familiarity with the work, having temporarily filled the position during the illness of the secretary appointed for the purpose by President Grant. It is a laborious and responsible position, and the work was carefully, diligently, and faithfully performed. I earnestly trust Congress will allow you full compensation for the service rendered.

Very truly, yours,

W. K. ROGERS.

W. H. CROOK,
Executive Clerk to the President.

We recommend that said Senate bill be adopted as a substitute for said bill H. R. 904, and that the same without amendment be passed.

O

7TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1180.

ESTATE OF JAMES RILEY.

MAY 3, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. W. G. THOMPSON, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 4777.]

The Committee on Claims, to whom was referred the bill (H. R. 4777) for the relief of the estate of James Riley, having had the same under consideration, respectfully report:

On the 10th of October, 1868, the following contract was entered into between James Riley and the United States:

This agreement, made and entered into this 10th day of October, A. D. 1868, between Lieut. John Carland, Sixth United States Infantry, A. A. Q. M., United States Army, on the part of the United States, of the first part, and James Riley, of the Choctaw Nation, Indian Territory, of the second part, witnesseth:

That the party of the first part, in consideration of the covenants hereinafter mentioned, hath agreed, and by these presents doth promise and agree, to and with the said party of the second part and his assigns, that he will furnish all the labor necessary to operate efficiently the saw-mill known as Riley's Mill, situate near Boggy Depot, Choctaw Nation, with the exception of a sawyer and engineer.

And the party of the second part, for himself, his heirs, and assigns, in consideration of the foregoing, doth hereby covenant and agree, to and with the said party of the first part and his successors, to furnish a good sawyer and engineer to operate said saw-mill, and that he will deliver one-half of the lumber manufactured at said mill to the party of the second part or his successors, the lumber to be delivered at said mill as soon as sawed.

This agreement to be binding for the period of six months from the date of these presents.

JOHN CARLAND,
Second Lieut., Sixth Infantry, A. A. Q. M.
JAS. RILEY,
per R. J. SCOTT.

HEADQUARTERS DISTRICT INDIAN TERRITORY,
Fort Arbuckle, C. N., October 10, 1868.

Approved:
JAMES P. ROY,
Major Sixth Infantry, Commanding District Indian Territory.

It appears from the evidence on file in the War Department, and copies of which have been transmitted by that department on the call of this committee, that Riley, endeavoring in good faith to comply with his contract, discharged all his men except the sawyer and engineer, and turned out his teams. But as the government failed to supply him with the labor necessary to operate the mill, as called for by the contract, he could not run the mill, and it remained idle during the whole term of the contract. What amount of damage is due for this failure on the part of the government to comply with its contract your committee do not now propose to consider, inasmuch asthe present bill

makes no direct award of damages, but only refers the case to the Court of Claims.

It is clear that there is a fair right on the part of the claimant, representing the estate of Riley, to an adjudication on this point. He has repeatedly applied to the War Department for a settlement of this claim, but residing, as he did, in the Indian Territory, remote from white settlements or good legal advice, he had little opportunity to give personal attention to the case, and so did not invoke the jurisdiction of the Court of Claims within the six years allowed by law. In view of this the statute of limitations cannot, in equity and justice, be now set up by the government against this claimant; particularly when there is a serious legal doubt whether an Indian, not being a citizen of the United States, has any right to sue at all in the Court of Claims without a special enabling statute. (Rev. Stat., secs. 1066, 1068.)

Considering all these facts, and believing that at least a *prima facie* case for relief has been shown, the committee think the claimant should be allowed to apply to the Court of Claims for relief, and report the accompanying bill.

O

ITH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1181.

RICHARD H. PORTER AND JAMES PORTER.

IAY 3, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Ir. BUCHANAN, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 4540.]

he Committee on Claims, to whom was referred the bill (H. R. 4540) for the relief of Richard H. Porter and James Porter, having carefully considered the same, make the following report:

The claim of Richard H. Porter and James Porter is for indemnity for property im-essed by order of General A. S. Johnson, in command of the Utah expedition of 57.

On the 10th of May, 1861, the Third Auditor of the Treasury made the following ard in favor of the claimants:

"TREASURY DEPARTMENT,
"THIRD AUDITOR'S OFFICE,
"*May* 10, 1861.

"In pursuance of an act of Congress, approved March 3, 1849, entitled 'An act to ovide for the payment of horses and other property lost or destroyed in the military vice of the United States,' and of an opinion of the Attorney-General, dated April 1861, it is adjudged that there is due from the United States to James and Richard Porter, for property impressed by order of Colonel Johnson, then in command of United States forces en route for Utah, and lost by them in the fall of 1857, while nsporting goods from Atchison, Kansas Territory, to Camp Scott, Utah Territory, d while said property was in the service aforesaid, as follows: One hundred and enty head of cattle, at $65 per head, $9,350; five horses and mules, at $150 each, 0; and this sum, $10,100, is payable to the claimants present,

"R. J. ATKINSON,
"*Third Auditor.*"

The opinion of the Attorney-General, Hon. Edward Bates, upon which this award s based, was given in reply to an inquiry of the Third Auditor, referred to him by Secretary of the Treasury, as to whether the claim came within the provisions of second section of the act of March 3, 1849, entitled, "An act to provide for the ment of horses and other property lost or destroyed in the military service of the ited States," and after a very full and careful consideration of the case gave his nion "that the claimants are entitled to be paid for the cattle, mules, horses, and gons lost or destroyed on the route from South Pass, under the provisions of the ond, third, and fourth sections of the act of March 3, 1849."

Said award passed through the offices of the First Auditor and First Comptroller, a warrant for the amount was prepared for the signature of the Secretary.

The Secretary, however, being in doubt whether the claim really came within the view of the act of March 3, 1849, referred the matter to the Solicitor of the Treas-r for an opinion upon that question, and also whether the award of the Third Audi-was final.

The award of the Third Auditor was held by said Solicitor, Hon. Edward Jordan, be final in the sense of being without appeal, and could not be enlarged or dimin-ed, but the Secretary declined to sign the warrant on the ground that, in his opinion, claimants were not entitled to compensation, under existing laws, to the extent their claim, nor compensation for damages resulting directly or indirectly from the ter of Colonel Johnson, and that the action of the Third Auditor did not place the e beyond the jurisdiction of the Secretary.

On the 16th of April, 1864, the Third Auditor, having reconsidered the case, second award in lieu of the award dated May 10, 1861, for five mules and two at $150 each, $750, which amount was paid to the claimants, and the award 10, 1861, was returned to the Third Auditor by direction of the Secretary of the ury.

Subsequently a demand was made for the payment of the balance of the a May 10, 1861, and on the 9th of March and 8th of July, 1865, the Third Audito John Wilson, gave a decision and report against the claim.

The matter being again brought before the Secretary of the Treasury, it ferred to the solicitor of the department for a report, and under date of June 3 he reviewed the case at length, and confirmed his former opinion that the award of the Third Auditor was final, and that it had "not been in any man charged or invalidated by any subsequent action, except by the satisfaction in part by the payment thereon of the sum of $750, paid in pursuance of the award, but that the same, as to the residue thereof, remains in law a subsist valid award."

This opinion was concurred in by Hon.——

On the 14th of January, 1869, the opinion of the Attorney-General was aske Secretary on the question whether the award made by the Third Auditor in t on the 10th of May, 1861, was still in full force, and also whether any additio ment on the claim should be made; and Hon. E. R. Hoar, Attorney-General 27th of March, 1869, replied that, in his opinion, the award referred to was no in force; and, further, that under the 8th section of the act of July 28, 1866, proval of the Second Comptroller, as well as the Auditor, was necessary.

It would appear, however, that the question did not receive the careful a that it deserved, as, prior to the passage of the act of July 28, 1866, the Thir tor, under the act of March 3, 1849, was the sole judge, and if the first awar Third Auditor was not valid and in force, then the subsequent adverse dec Auditor Wilson, given July 8, 1865, concluded the case.

The case was again called up before the Secretary of the Treasury, Hon. Wil Richardson, and referred by him to the Solicitor of the Treasury, Hon. E. A. B for an opinion as to whether the award of the Third Auditor, dated May 10, 18 constituted a valid claim against the government, and he rendered an adverse on the 22d of November, 1873, which opinion was approved by the Secretary.

On the 20th of July, 1874, Hon. B. H. Bristow, then Secretary of the Treasur the opinion of the Solicitor of the department, Hon. Bluford Wilson, as to whe action of his predecessor of November 22, 1873, was conclusive, and whether th ants were estopped, by their acceptance of the second award of $750, in reply t the Solicitor replied that the Secretary had no power to act in view of the dec Mr. Chase, and that the second award was final.

Finally, on the 18th of November, Hon. J. W. Brodhead, in response to an whether any objections would be interposed to the petition of the claimants fo erence of the case again to the Attorney-General for an opinion, stated "t question as to the validity and binding force of the first award of the Audit one purely of law, *and evidently not very fully considered in the opinion of Attorn eral Hoar*, the opinion of the highest law officer of the government would see proper." The Secretary, however, declined to refer the matter to the Attorn eral as suggested.

It will thus be seen that the case has been considered by the successive of the Treasury Department with varying results, though the main question that l passed upon has been the finality of the award of May 10, 1861, and on this p law advisers of the department have been divided.

The question originally submitted to the Attorney-General was as to the cons of the act of March 3, 1849, and whether or not the property claimed was in into and actually employed in the military service of the United States wit meaning of said act, and the Third Auditor, being advised that so much of th ants' property as was impressed by order of Colonel Johnson and lost by the fall of 1857, while said property was in the service of the United States, came said act, he proceeded to make his award from the facts of the case. That is upon the opinion of the Attorney-General, the Auditor allowed for so mucl claimants' property as was impressed and lost as stated, and made an award for amounting to about *one-third* of the damage alleged to have been sustained claimants, *and made no allowance whatever for the balance.*

Under the fourth section of the act of March 3, 1849, the award of the Third was final. The claimants were entitled to the amount thereof "upon the pr of a copy thereof certified by said Auditor at the Treasury of the United St Stat., 415).

When the award was made by the Third Auditor under said act, it became on all the departments of the government, and could not be set aside or im except for fraud, corruption, or gross error, which does not appear in the case

econd award made by the Third Auditor, R. J. Atkinson, April 16, 1864, was d by the claimants under protest, and cannot affect their rights under the first except that it stands as a part payment on account of same.

award was made for the mules and horses impressed into the service of the States, the first award including these, and also the claimants' cattle killed d by the Army, and lost while under the control of Colonel Johnson.

papers in the case show that Secretary Chase would not have declined to sign rant drawn in conformity with the award of May 10, 1861, if he had supposed nion of the Third Auditor expressed his own judgment uncontrolled by the of the Attorney-General; but as the Auditor was only guided by the Attorney- l in regard to the law governing the case, and not as to facts or the amount of suffered by the complainants, it does not appear to detract from the validity award.

award appears to the committee to have been made in accordance with the ons of the act of March 3, 1849, vol. 9, Statutes at Large, sec. 2, page 415, and roof was conclusive as to the taking of the property by the officers of the gov- t under circumstances that appear to have justified such taking, and the gov- t having received the benefit thereof in 1857, we recommend the bill do pass.

C

ONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 1182.

BEN HOLLADAY.

1882.—Committed to the Committee of the Whole House and ordered to be printed.

ROWLEY, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 6091.]

ommittee on Claims, to whom was referred the bill (H. R. 6091) for the relief of Ben Holladay, submit the following report:

s claim has been pending before Congress ever since January, 1866. able reports have been repeatedly made. In the last Congress, enate Committee on Claims, after an exhaustive examination, durich they heard the testimony of more than thirty witnesses, re- l that Holladay was fairly and equitably entitled to the sum of '39, but the amount was reduced by the Senate to $100,000. No in regard to the claim was taken in the House, and Mr. Holladay ed to accept $100,000 as a full satisfaction thereof, even though it l be appropriated for that purpose.

claim has again been heard and investigated by the Senate Com- on Claims in the present Congress, and also by your committee; our committee, after devoting considerable time and much consid- n to the evidence and to the arguments for and against the allow- f the claim, have concluded to adopt as their own the report made Senate by Mr. Cameron, chairman of the Senate Claims Committee present Congress, allowing only the sum of $320,153, in favor of olladay as full compensation and settlement of his entire demand. ator Cameron's report appears to us to be fully sustained by the , and sound in its conclusions, and we, therefore, report the ac- nying bill as a substitute for the one referred to your committee . 551) and recommend its passage. We annex hereto Senator ron's report and its appendixes.

[Senate Report No. 403.—Forty-seventh Congress, first session.]

mmittee on Claims, to whom was referred the memorial of Ben Holladay, praying ensation for spoliations by Indians on his property while carrying the mails of the d States, and for damages and expenses incurred in consequence of the changing of ail route in compliance with military orders, and for property taken and used by the ry forces of the United States, having had the same under consideration, submit the ving report:

the evidence taken in this case it appears—

. That Ben Holladay was the contractor for carrying the overland mail in 1861 he Missouri River to Salt Lake City, at the rate of $450,000 a year; that from 1862, to September 30, 1864, he paid to the Pacific Mail Steamship Company

to protect this line. Upon the removal of the troops, seven or eight warlike Indians, who had been repressed by the presence of the Army, suddenly atta stations on about 500 miles of the line, murdered agents and drivers, captu drove away great numbers of horses and mules, burned buildings, wagons, large quantities of forage and provisions, and other property, all of which, to carry out his contract, he was compelled to rebuild and replace at great That the Indians, for many miles on each side of the line, set fires that consu grass, greatly increasing thereby the cost of forage.

Fourth. That during these Indians depredations, the line being unprotecte diers, Mr. Holladay, knowing that he was in great danger of losing all that invested, besides incurring obligations beyond his power to meet, came to Wa and made known the situation to President Lincoln and the Postmaster-Gene was assured by the President that it was a political necessity that the mail be carried; that a line of communication must be kept open across the conti the reason that Confederate cruisers had already rendered communication by safe, and that under no circumstances, and for no reasons, should the overla route be abandoned. The President also assured him that soldiers would be f sufficient for his protection, and that Mr. Holladay could rely implicitly upon t and justice of the government to reimburse him for all the losses he might inc President also advised him to keep an accurate account of his losses, so might at the end of his contract substantiate his claims. Relying upon the s of the President, upon the justice of the government, seeing the necessity for the mail, and for keeping a communication open with the Pacific coast, Mr. H careless alike of loss and danger, carried the mails, rebuilt the stations as burned, restocked the line as often as necessary, and fulfilled his contract.

Fifth. That it became necessary to remove the route from the North Pla Sweetwater or South Pass, to that known as Bridger's Pass, along the Larami then known as the Cherokee Trail. That this change of route was made in ance with military orders. That he was compelled to abandon a large numb stations and buildings, together with a considerable amount of his supplies. making such change he erected new stations at great expense, under great dif and exposed to great danger. That he changed the route for at least five miles of the line, and that the change involved the abandonment of old stat the building of new, the construction of roads and bridges, and the loss of m uable property.

Sixth. It also appears that Mr. Holladay was obliged to remove from th River route, to the so-called Cut-off route, by order of Colonel Chivington, b removal he sustained great damages, not only by the abandonment of his p but by a lengthening of his line.

Seventh. That large quantities of his hay, grain, and other provisions we for the use and service of the government troops and agents, for which no c tion was ever made.

Eighth. In 1866, on the 24th of January, the claim of Mr. Holladay to be rei

of March, 1878, the bill being under consideration, the Senate refused to send the case to the Court of Claims, but recommitted it to the committee, with instructions to report to the Senate what amount, if any, was equitably due the claimant. The committee proceeded to take the testimony of witnesses acquainted with the facts, and after an investigation of the claim, including the examination of more than thirty witnesses, reported that Mr. Holladay was fairly and equitably entitled to the sum of $526,739. It will thus be seen that this claim has been examined by three committees, consisting of nine members each, and that these committees have reported in favor of its payment.

Ninth. After a careful examination of all the testimony in this case, your committee is of opinion that the memorialist, Holladay, is equitably entitled to compensation. Your committee find that in the summer of 1862, in consequence of Indian hostilities, about 500 miles of the main line of claimant's route was so damaged and infested by Indians as to compel its abandonment by the claimant, under the orders of the Post-Office Department and of the officers in command of the military forces sent to protect the overland mail. That he was forced to select a route further south, involving the establishment of a new line, for a distance of over 500 miles, and distant from the old line from 100 to 300 miles. That this removal was an absolute necessity, as it was not possible to carry the mail by the old route, "except," according to the testimony of General Craig, "with the consent of the Indians themselves." And, further, that the claimant was assured not only protection but indemnity for his losses, by the President of the United States.

Your committee also find that the removal thus mentioned involved the abandonment of twenty-six mail stations, a large amount of forage, and many articles of value necessary to the running of the stages. That the memorialist was compelled to construct new stations on the new line, twenty-five in number, at large expense, sustaining, by such removal from the old line, damages, in the opinion of your committee, to the extent of $77,000. (See Appendix A for details.)

Your committee further find that, in pursuance of a military order of Col. J. M. Chivington, commanding the District of Colorado, the memorialist was compelled to remove the stage line from the Platte River route, to the Cut-off route, being forced to abandon some of his stations on 140 miles of the road, and to remove twelve others to the new road, and to rebuild the same at great loss and expense. That the testimony tends to show that the damage to the memorialist by the removal to this line under the order of Colonel Chivington, rendering necessary, as it did, the transfer of houses, barns, hay, grain, and other articles, and rebuilding necessary structures on the new line, amounted to about $50,000. (See Appendix B for details.)

Your committee also find from the testimony that a large amount of hay, provisions, and other property belonging to the memorialist, was taken and used from time to time, by the military forces of the United States scattered along the route of the new line. That large quantities of wood belonging to the stations were taken and appropriated by the soldiers, and several houses and stables destroyed and used by them for fuel, for none of which were vouchers given. That the testimony on this claim tends to show that the value of the property thus taken and destroyed by the military forces was in the neighborhood of $30,000. (See Appendix C for details.)

Your committee further report that the evidence shows that the damages sustained by the memorialist while carrying the mails of the United States, by reason directly of depredations and hostilities of Indians along his route, was $369,739, which sum, added to the other sums above found, makes a total of $526,739, as the damages sustained by the memorialist in the discharge of his duties in carrying the mails of the United States. (See Appendix D for details.)

Your commi tee refer for full details to the report made by this committee June 13, 1878.

While your committee is satisfied that the claimant is equitably entitled to the sum mentioned in said report, and that he sustained losses to that amount, it has been leemed best to take into consideration only the losses sustained by the said claimant luring the existence of the contract expiring October 1, 1864; a doubt existing in the ninds of some of the committee as to whether claimant is equitably entitled to be reimbursed for losses sustained by Indian depredations under the second contract, as he testimony shows that the promises of the President and Postmaster-General to the ffect that the claimant should be reimbursed, and the orders of the War Department, pplied only to the first contract.

Your committee report in favor of paying the losses incurred by Indian depredaons during the existence of the first contract, namely, to the 1st day of October, 1864. he evidence shows such losses, together with the dates, up to the 1st day of August, 864, amounting to $163,153. The evidence then shows only the amount from August to anuary, to wit, $57,467.32; and consequently it is a matter of doubt as to how much ss was incurred before October 1.

Taking into consideration the fact that most of the Indian depredations, according the testimony, were committed in the summer and fall, your committee think they

might fairly allow *half* of said amount, but on account of the uncertainty of the time when these losses happened your committee exclude them entirely.

Your committee also report that the losses of claimant arising from the removal of the route from the North Platte and Sweetwater to Laramie Plains and Bridger's Pass were $77,000; and that the removal from the Platte River to what was known as the "Cut-off," involved an expense and loss amounting to at least $50,000.

Your committee also report that the amount taken, used, and destroyed of the property of the claimant, by the soldiers of the United States for the use of the United States, amounted to at least $30,000; making an aggregate of $320,153, to which, in the judgment of your committee, the said claimant is equitably entitled.

It should not be forgotten that the services of the claimant were of the highest importance to the whole country, and that it would be hard to overestimate the magnitude of the undertaking, the obstacles overcome, or the ability, perseverance, and courage that were necessary to success.

Your committee therefore report the accompanying bill, and recommend that it do pass.

Appendix A.

The cost of removal from the North Platte and Sweetwater or South Pass route, to the route through Bridger's Pass, along Laramie Plains and Bitter Creek, sometimes called the Cherokee trail, or Butes Creek route, and the damages incident to it, is shown by the affidavit of Col. Isaac E. Eaton (p. 12) in the printed copies of evidence. He was superintendent of the Overland Mail line under Holladay, in 1862, when the Indian raids, detailed in his evidence, were perpetrated. He states that Holladay was compelled to abandon 26 stations, worth $2,000 each, and a large amount of forage, and other articles of value, necessary to the running of the line, of the amount of which he could form no true estimate; but Holladay, who had to pay for supplies to replace those lost on the old line, and abandoned, under the enforced removal, states (p. 64 of printed evidence) that the sum of $25,000 would not cover these losses.

Under the circumstances, the line being changed in the face of hostile savages, it must be apparent that no exact computation could be made of the various articles of equipment existing necessarily at each of the twenty-six abandoned stations, as the removal was a retreat in the face of a vigilant and dangerous foe, in the midst of actual hostilities, and under the apprehension of destruction to the lives of the employés. There could have been no time for anything like taking account of the articles left behind. The hostile attitude of the savages is abundantly proven by General Craig, who stated that the line could only have been kept up "by consent of the Indians; and the removal ordered was a wise measure in all respects." (P. 57 of printed evidence.) David Street, an officer of the line (p. 54 of printed evidence), testifies to the abandonment of a great deal of valuable property, owing to the hasty manner of the removal; and also that the stations abandoned were of a substantial character, all of them; and that the one at Horse Shoe Creek, which was a supply-station, was a blacksmith shop, coach and harness shop, warehouses, lodging-houses, offices, and corrals, of the most substantial nature, erected at heavy outlay.

Appendix B.

The cost of removal from the Platte River route to the so-called Cut-off route, by order of Colonel Chivington, is shown by the evidence (p. 60) of George K. Otis, who gave instructions for it, as he was then acting as superintendent of the line.

He states that he made an estimate of the cost—knowing the number of teams necessary, the distance to haul, as well as an estimate of the loss of grain and hay in removal—and that he is well satisfied that it did cost $50,000; fully that, if not more.

David Street (p. 54 of the evidence) sustains Otis in the statement he makes, that the line was subjected to heavy losses in consequence of the removal.

The evidence of the claimant is to the effect that he objected to removal, stating to the military officer that winter was on him, the stations then supplied, the grain-sacks emptied into bins, and the sacks sent off to be filled again, fuel procured, &c.; and that the stations had to be pulled down, hauled, and put up again; all which he represented to that officer.

Edward F. Hooker (p. 51 of evidence) states that, in his opinion, the loss of hay and grain, and putting up new stations, the labor of removal, &c., would cost not under $5,000 a station.

George H. Carlyle (p. 42 of evidence) stated that the sum of $70,000 for removing the station, and the loss in grain and hay and corrals, and wood, &c., was not too

great. His evidence is very full on the subject, and minutely describes the process removing stations, and the distance for removal from 25 to 60 miles.

William Reynolds, superintendent of the line (p. 23 of the evidence), also states matt of importance in regard to the damage by removal, showing the nature of the remova its incident, and extent of work necessary to accomplish the act.

APPENDIX C.

The damages sustained by the claimant for grain, fuel, hay, &c., used by the milita forces in the line of the claimant in the Territory of Colorado, is proven by Carlyle (41 of the evidence). He states that the military forces took at one time twenty-ni head of oxen from the line at Fort Kearney, worth $100 a head; and one hundred cor of wood at Julesburg, worth $50 a cord, and that from what he knew to have bee destroyed and used by the soldiers, he did not consider $30,000 an overestimate the damage inflicted by the military on the line of the claimant, and that when a r ceipt for anything used was wanted it was refused. He stated that they were in tl habit of going to stations and getting whatever was wanted by them, grain or pr visions, until to stop the raids a military order was procured, and that this dama was done between October, 1864, and December, 1865.

David Street (p. 54 of the evidence) also gave evidence that the line was subject to serious losses in consequence of damage done and property taken by the Unit States soldiers.

Then George K. Otis states (p. 60 of the evidence) that he made the estimate of tl damages done by the military forces to the property of the claimant, and that he ma the estimate of $30,000 after consultation with the division agents and men employ on the stage-line; that no record could be kept of the property taken or used, or wh was eaten up and consumed; but from the number of troops constantly passing and down the road, he was satisfied that at least $30,000 would be required to inde nify the claimant.

William Reynolds (p. 23), superintendent of the line from October, 1864, to Marc 1866, stated that large amounts of grain and hay and wood were consumed by the mi itary forces on the line, the property of claimant, while he was superintendent of tl line, and several houses and stables used for fuel and other purposes.

APPENDIX D.

I.

The Indian depredations on the stage-line of the claimant, as established by tl evidence, appear as follows:

A. D. 1863.	173 horses and 34 mules, near Fort Halleck, page 4, printed evidence of R. L. Pease, total value	$41,400

II.

	Loss at 3-Crossings Station:	
April 16, 1862.	22 mules and horses, at $225 each	4,950
	10 sets 4-horse harness, at $110 each	1,100
	3 head oxen, at $50 each	150
April 17, 1862.	9 head mules, at $200 each	1,800
	9 sets 4-horse harness, at $110 each	990
	Damage to two coaches	500
		9,490
	At Plant Station:	
April 18, 1862.	5 mules, at $200 each	1,000
	4 horses, at $225 each	900
	20 sets 4-horse harness, at $110 each	2,200
April 20, 1862.	10 mules, at $200 each	2,000
		6,100

At Ice Spring Station:

April 23, 1862.	10 mules, at $200 each	$2,000 00
	5 sets 4-horse harness, at $110 each	550 00
	1 cow and ox, at $50 each	100 00
		2,650 00

At Strawberry Station:

May 23, 1862.	35 sacks barley, 3,500 pounds, at 15 cents per pound	525 00

At Upper Crossings Sweet Water:

	18 sacks barley, 1,800 pounds, at 15 cents	270 00
		795 00

Damage done to stations at 3-Crossings, Sweet Water, Split Rock, and Ice Springs, each $500	1,500 00

To establish the damages above claimed, reference is made to the evidence of Flowers, division agent (p. 5 of evidence): R. Murray, employé (p. 6 of same).

III.

Loss at Sweet Water Bridge:

April 18, 1862.	8 mules and horses, at $200 each	$1,600 00

At Horse Creek Station:

Mar. 23, 1862.	5 horses, at $175 each	875 00
	18 mules, at $225 each	4,050 00
		6,525 00

At Red Buttes:

April 1, 1862.	15 mules and horses, at $125 each	2,625 00
April 21, 1862.	6 mules and horses, at $175 each	1,050 00

At Platte Bridge Station:

March, 1862.	13 mules, at $150 each	1,950 00
		5,625 00

To prove the loss above claimed, reference is made to the evidence of J. A. Slade, division agent (p. 7 of evidence.

IV.

Loss at Big Sandy Station:

April, 1862.	18 mules, at $225 each	$4,050 00
	4 horses, at $225 each	900 00
	1 4-horse harness	110 00
		5,060 00

V.

At Green River Station:

April, 1862.	100 sacks barley, 10,000 pounds, at 15 cents	1,500 00
	50 sacks oats, 5,000 pounds, at 15 cents	750 00
		2,250 00

This is proven by Babcock (p. 8 of evidence).

VI.

Loss at Dry Sandy Station:

Mar. 15, 1862.	2 mules, at $200 each	400 00

At Green River Station:

April 20, 1862.	5 horses, at $200 each	1,000 00
	6 sets harness, at $20 each	120 00
	120 sacks oats, at $5 each	600 00

ril 20, 1862.	480 empty sacks, at 60 cents each	$288 00
	damage done to station	600 00
		2,608 00
	At Big Sandy Station:	
ne 7, 1862.	4 mules, at $200 each	900 00
	20 sacks oats, at $5 each	100 00
	3 tons hay, at $30 per ton	90 00
	damage to station	500 00
		1,490 00
	At Muddy Station:	
ne 12, 1862.	4 mules, at $200 each	800 00
	At Bear River Station:	
	2 horses, at $100 each	200 00
	damages to station at Pacific Springs, Dry Sandy, and Little Sandy, at $500 each	1,500 00
		2,500 00
	At Little Sandy Station:	
	30 sacks oats, at $5 per sack	150 00

To establish the losses above, reference is had to the evidence of J. E. Bromley, vision agent (pages 8 and 9 of the same printed evidence).

VII.

	At Split Rock Station:	
ar. 1, 1862.	10 mules, at $200 each	$2,000 00
	1 horse, at $200	200 00
	12 sets single harness, at $20 each	240 00
ar. 30, 1862.	7 mules, at $200 each	1,400 00
	8 sets single harness, at $20 each	160 00
		4,000 00
	At Rocky Ridge Station:	
ril 18, 1862.	6 mules, at $200 each	1,200 00

To prove this loss, reference is made to the evidence of W. A. Reid, division agent ages 10 and 11 of evidence).

VIII.

	At Wells Station:	
ril 20, 1862.	2 horses, each at $150	$300 00

This loss is established by the evidence of Johnson (p. 11 of evidence).

IX.

	Loss at Midway Station:	
gust, 1864.	Dishes and furniture destroyed	500 00
	At Platte Station:	
	4 horses, at $350 each	1,400 00
	250 sacks corn, 28,000 pounds, at 20 cents each	5,600 00
	10 tons of hay, at $40 per ton	400 00
		7,900 00
	At Plum Creek Station:	
	250 sacks corn, 28,000 pounds, at 20 cents per pound	5,600 00
	At Craig Station:	
	250 sacks corn, 28,000 pounds, at 20 cents per pound	5,600 00
	29 head of oxen, at $100 each	2,900 00
		14,100 00

The evidence to prove these losses consists of the proof made by George W. Carlyle d Solomon Riddle (pages 13, 14, 15, 16, of the printed evidence, reported).

X.

	Losses at Diamond Springs:	
August, 1864.	250 sacks corn, 28,000 pounds, at 20 cents	$5,600 00
	15 tons hay, at $40	600 00
		6,200 00
	At Sand Hill Station:	
	250 sacks corn, 28,000 pounds, at 20 cents	5,600 00
	15 tons hay, at $40	600 00
		6,200 00
	At Alkali Station:	
	250 sacks corn, 28,000 pounds, at 20 cents	5,600 00
	20 tons hay, at $40	800 00
		6,400 00
	At Elk Horn Station:	
	65 sacks corn, 7,280 pounds, at 20 cents	1,456 00
	10 tons hay, at $40	400 00
		1,856 00
	At Cold Spring Station:	
	20 sacks corn, 4,480 pounds, at 20 cents	896 00
	15 tons hay, at $40	600 00
		1,496 00
	At Gilman's Station:	
	30 sacks corn, 3,360 pounds, at 20 cents	672 00
	At Midway Station:	
	30 sacks corn, 3,360 pounds, at 20 cents	672 00
	15 tons hay, at $40	600 00
		1,944 00
	At Willow Island:	
August, 1864.	50 sacks corn, 5,600 pounds, at 20 cents	1,120 00
	10 tons hay, at $40	400 00
		1,520 00

XII.

	Loss at Junction Station:	
July 16, 1864.	5 stage-horses, $250 each	1 250 00
	At Beaver Creek:	
	1 horse, at $250	250 00
	At Lupton Station:	
August, 1864.	1 horse	250 00
		1,750 00

These losses are shown by the evidence of Thomas (page 21 of evidence), and evidence of William Trotter (page 36).

	Liberty Farm:	
August 12, 1864.	Coach burnt up	$1,200 00
	Elkhorn:	
Sept., 1864.	Station burned	3,500 00
		4,700 00

XI.

	Losses at Summit Station:	
August, 1864.	Station, furniture, and bedding destroyed	$2,500 00
	At 32-Mile Creek Station:	
	Furniture, crockery, and stores destroyed	2,500 00
		5,000 00
	At Little Blue Station:	
	Furniture and grain destroyed	2,000 00
	2 horses killed on the road, $200 each	400 00
		2,400 00
	At Pawnee Ranch:	
	4 horses, $200 each	800 00
	At Muddy Station:	
	1,500 pounds corn, 12 cents	180 00
		980 00
	At Lone Tree Station:	
	Station destroyed	1,000 00
	9 horses taken, $200 each	1,800 00
	5 horses killed in escaping from Indians	1,000 00
		3,800 00
	At Liberty Town:	
	2 sets double harness, $110 each	220 00
	At Summit Station:	
	200 bushels corn, 11,200 pounds, at 12 cents	1,344 00
		1,564 00
	Total losses to August, 1864	163,153 00

Losses accruing from August, 1864, *to January*, 1865, $57,467.32.

The evidence in regard to the above losses will be found at pages 17, 18, 19 of printed proof given by Lloyd, Ivins, and Jerome.

	At Murray's Ranch:	
August, 1864, to Jan., 1865.	15 tons hay	$750 00
	Junction Ranch:	
	10 tons hay, $50	500 00
	Bijou Station:	
	7 tons hay, $50	350 00
		1,600 00
	Valley Station:	
	20 tons hay, $50	1,000 00
	Beaver Creek Station:	
	75 sacks corn, 8,400 pounds, 22 cents	1,848 00
	Murray's Station:	
	100 sacks corn, 11,200 pounds, 22 cents	2,464 00
		5,312 00
	Junction Station:	
	100 sacks corn, 11,200 pounds, 22 cents	2,464 00
	Bijou Station:	
	48 sacks corn, 5,376 pounds, 22 cents	1,182 72
	Toll-gate Station:	
	20 tons hay, $50	1,000 00
		4,646 72

	Box Elder Station:	
August, 1864.	10 tons hay, $50	$500 00
	Kiowa:	
	15 tons hay, $50	750 00
	Living Springs:	
	5 tons hay, $50	250 00
	Rock Bluff:	
	7 tons hay, $50	350 00
		1,850 00
	At American Ranch:	
Jan., 1865.	8 horses, $250	2,000 00
	2 sets 4-horse harness, $110 each	220 00
	2 horses, $250 each	500 00
	58 head of oxen, $100 each	5,800 00
		8,520 00
	At Antelope Station:	
Aug., 1864, to Jan., 1865.	House, barn, and corral burned	5,000 00
	25 tons hay, at $50	1,250 00
	125 sacks corn, 14,000 pounds, at 20 cents	2,800 00
		9,050 00
	At Spring Hill:	
	Houses, barns, and furniture destroyed	6,000 00
	20 tons hay, at $50	1,000 00
	90 sacks corn, 10,080 pounds, at 22 cents	2,217 60
		9,217 60
	At Dennison Station:	
	Barn and corral burned	2,500 00
	25 tons hay, at $50	1,250 00
	200 sacks corn, 22,400 pounds, at 22 cents each	4,928 00
		8,678 00
	At American Ranch:	
	Barn destroyed, burned	1,500 00
	30 tons hay, at $50	1,250 00
	227 sacks corn, 25,424 pounds, at 22 cents	5,593 00
		8,593 00

RECAPITULATION.

1863.	173 head of horses	$41,400 00
1862.	Three-Crossings Station	9,490 00
	Plant Station	6,100 00
	Ice Springs Station	2,650 00
	Strawberry and Upper Crossings	795 00
	Damage to stations	1,500 00
	Sweetwater and Horse Creek	6,525 00
	Red Buttes	5,625 00
	Big Sandy	5,060 00
	Green River	2,250 00
	Dry Sandy	400 00
	Green River	2,608 00
	Big Sand	1,490 00
	Muddy Station and Bear River	2,500 00
	Little Sandy	150 00
	Split Rock Station	4,000 00
	Rock Ridge Station	1,200 00
	Wells Station	300 00

ug., 1864.	idway and Platte Station		$7,900 00
	Plum Creek and Craig Station		14,100 00
	Testimony of G. H. Carlyle		25,216 00
	Junction Beaver Creek and Lupton		1,750 00
	Summit Little Blue Pawnee, Lone Tree, Liberty Town, and Summit		13,744 00
	Liberty Farm and Elkhorn		4,700 00
			161,453 00
	Printer's error in previous report, price per sack should be $15 in place of $5 (100 lbs., 15 c.), as per testimony of J. E. Bromley		1,700 00
			163,153 00
	Amount of losses to October 1, 1864		163,153 00
	From August, 1864, to January, 1865, as per report, amounts to one-half	$57,467 32	28,723 66
	Losses on first removal	77,000 00	
	Losses on second removal	50,000 00	
	Property taken, used, or destroyed by United States troops	30,000 00	
			157,000 00
			348,876 66

H CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
1st Session. } { No. 1183.

P. L. WARD, EXECUTRIX.

r 3, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

: GEORGE D. WISE, from the Committee on War Claims, submitted the following

REPORT:

[To accompany bill H. R. 3469.]

e Committee on War Claims, to whom was referred the bill (H. R. 3469) for the relief of P. L. Ward, executrix of William Ward, deceased, report as follows:

The facts out of which this claim for relief arises will be found stated Senate report of the Committee on Claims, No. 174, first session rty-seventh Congress, a copy of which is hereto appended.

Your committee adopt the said report as their own, and report back e bill with the recommendation that it do pass.

[S. Report No. 174, Forty-seventh Congress, first session.]

This claim was presented to the Senate during the Forty-sixth Congress by the pe-ion of said executrix, which was referred to the Committee on Claims and assigned Mr. Harris, a member of the committee, for examination and report.

On the 11th day of February, 1880, the claim was favorably reported to the Senate Mr. Harris. The following is a copy of the report:

'The petition states that petitioner is the widow and executrix of William Ward, eased; that in June, 1860, William Ward entered into a written contract with the ited States for supplying fresh beef and vegetables to the Navy at the Norfolk, ., station, and that under said contract her late husband and testator, on or about 21st January, 1861, supplied the United States ship Plymouth with the articles ned to the amount of $275.13, for which no payment was ever made, and she refers the records of the Navy Department for the proof. The committee sent the petition the Navy Department with a request for such information in respect to this claim the records of that department could furnish, and received from the Secretary the lowing reply:

"'NAVY DEPARTMENT,
"'*Washington, February* 5, 1880.

''SIR: I have the honor to return herewith the petition of Mrs. P. L. Ward, asking payment of $275.13, on account of fresh beef and vegetables supplied by her late sband, William Ward, of Norfolk, Va., for the use of the United States Navy, ich petition was referred to this department by the honorable Secretary of War, compliance with your request of the 15th ultimo.

''The account of the late Mr. Ward is correct, as shown by the records of the Bureau Provisions and Clothing in this department, with the exception that the fresh beef l vegetables referred to were delivered to the United States steamer Brooklyn in-ad of the United States steamer Plymouth, as stated in the petition.

"'Very respectfully,

"'R. W. THOMPSON,
"'*Secretary of the Navy.*

"'Hon. I. G. HARRIS,
"'*United States Senate.*'

"From which the committee is satisfied that the articles were furnish tract, as stated in the petition, and have never been paid for, and that $275.13, is justly due the claimant and should be paid.

"The petitioner also states that in the month of August, 1863, her te into a verbal contract with Capt. Edwin Ludlow, of the Quartermaster' of the United States Army, in the presence of Hon. L. H. Chandler, l attorney forthat district, and one other witness, for the purchase of sixt at $30 per ton, which was delivered by her said testator to the said Luc by the Army of the United States. That shortly after the delivery sai that locality without paying for the hay, though often having promised

"On the 12th December, 1866, her late husband and testator addres the Quartermaster-General asking payment for this hay so furnished facts of the contract and delivery of the hay, and the fact that no vouc because Captain Ludlow said it was not necessary to give a voucher, as for the hay as soon as he received funds, which he was daily expectin there without paying, and without giving any voucher for the sixty ton that upon diligent inquiry he had never been able to ascertain the resi tain Ludlow since that time.

"This letter is indorsed on the back as follows:

"'I most unhesitatingly indorse the within statement.

"'L. H. CHAN

"'*United States District Attorney*

"'J. T. DA

"On the 16th day of January, 1867, this account was made out upo printed form furnished by the department, upon which the sale, delive of the hay, amounting to $1,800, and the loyalty of the claimant are affidavits of the then claimants, William Ward, L. H. Chandler, and and the respectability and loyalty of the said Ward, Chandler, and H spectively certified to by John E. Doyle, justice of the peace; and the and loyalty of William Ward is also certified to by William W. Wing, p

"The oath of allegiance to the United States of William Wing is also Henry M. Bowden, clerk of the corporation court, certifies to the citize tability, and loyalty of William Ward, and to the official character of J as a justice of the peace for said county.

"The letter above referred to, addressed by William Ward to the Q General, and the proof above referred to were sent to the committee by partment in answer to a letter from the committee asking for such infor records of that department could furnish as to the justice of this claim. ing is the letter from the Secretary of War:

"'WAR DEPAR

"'*Washington City, Janu*

"'SIR: Acknowledging the receipt of your letter of the 15th instant information memorial of Mrs. P. L. Ward for pay for certain quartermas beef delivered by her deceased husband, William Ward, in 1860 and 1863 termaster's Department of the Army and the naval station at Norfolk, ively, I have the honor in reply to inclose herewith a letter from Mr. December 12, 1866, submitting his claim to the Quartermaster-General contains all the information on the subject the records of this departme

"'No action was taken upon the claim by the Quartermaster-General that it originated in Virginia, a State declared to be in insurrection dur lion.

"'Your letter and the memorial have been referred as desired to the h retary of the Navy, for information from his department.

"'Very respectfully, your obedient servant,

"'ALEX. RA

"'*Secre*

"'Hon. ISHAM G. HARRIS,

"'*Committee on Claims, United States Senate.*'

"The Quartermaster-General takes no action upon this claim upon the cold, technical ground that the claimant was a resident of a State in rebellion.

"The proof is clear and conclusive that Quartermaster Ludlow contr hay, equally clear as to the contract price, amounting to $1,800, equally loyalty to the United States of William Ward, who furnished the hay, the husband and is the testator of the petitioner, and equally clear tha never been paid for.

"It does not clearly appear when William Ward died. It is certai

ıt to 1867 and before 1878, when this petition was presented by P. L. Ward, ıd executrix. She states that neither her late husband nor herself were ever nor did they know of the establishment of what is called the Southern ›mmission, nor the necessity of presenting this claim to that tribunal, until ɜxpiration of the time within which it could have been presented; nor did · know of the status of the claim until a few months before the presentation tition.

›mmittee are satisfied that the vegetables and beef, amounting to $275.13, were under contract to the United States Navy; and that sixty tons of hay was lelivered to Quartermaster Ludlow, at $30, amounting to $1,800, making an › of $2,075.13; that the same were never paid for, and that the claimant was he United States, and that this sum is justly due to the claimant and should and therefore the committee report the accompanying bill, and recommend ss."

ımmittee adopt this report.

O

TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1184.

BANGS, BROWNELL & CO.

AY 3, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

r. HALL, from the Committee on War Claims, submitted the following

REPORT:

[To accompany bill H. R. 6092.]

he Committee on War Claims, to whom was referred the petition of Bangs, Brownell & Co., report as follows:

That the claimants being engaged under military permit and regulaon in the manufacture of tar on the coast of Florida, on the 18th of pril, 1865, a vessel, the schooner Martha M., under charter to them nd laden with tar and wood, was seized by the military authorities of e United States at Barrancas, Fla., while making the voyage from lorida to New Orleans; the cargo was removed from the vessel and ubsequently turned over to the agent of the Treasury, and finally, on e 16th of June, 1865, the vessel was returned to the claimants. The laim is as follows:

or 246 barrels of tar, at $10	$2,460 00
or 15 cords of wood, at $10	150 00
or loss of tools and materials	1,000 00
or use of vessel from April 18 to June 16, 1865	1,800 00
Total	5,410 00

The petitioners filed their claim with Hon. E. M. Stanton, Secretary f War, early in 1866, by whom the same was referred to the Quartertaster-General for examination, who turned over the papers to the chief uartermaster of the Military Division of the Gulf for examination. Afr investigation by this official the claim was passed on and disallowed r want of jurisdiction, though the entire justice of the claim was dmitted, as the Comptroller of the Treasury in his letter of April 12, 867, says:

This claim is just, but not being founded on contract, express or implied, and there ing no law of Congress authorizing its settlement and payment, and being for propty appropriated by the military authorities in one of the rebel States, the accounting ficers have no power to act in the premises. Congress alone has jurisdiction, and on proper showing I have no doubt will grant adequate relief.

On May 6, 1872, this claim was filed with the Commissioners of Claims, ho also disallowed it for want of jurisdiction. In their report they ay:

The vessel and cargo were seized and Mr. Brownell arrested, imprisoned, tried before military commission and acquitted, and after two or three months detention, Mr. rownell was released and the vessel restored to him, but the tar had been turned ver to the Treasury agent and shipped away, and the proceeds of it are probably in

the public treasury at this time. The whole proceeding against Mr. Brownell and this property was unjustifiable on the part of the local commanding officers, and was severely censured by the department commander. But as the property was not taken for the use of the Army or Navy of the United States, the claim is not within the jurisdiction of the Commissioners and must be disallowed.

In view of the foregoing statement of facts, your committee must regard this claim as just in its character, though too large in amount, and recommend the payment of $5,000, and report a bill appropriating the sum of $5,000, and recommend its passage.

7TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1185.

B. F. MARTIN.

MAY 3, 1882.—Laid on the table and ordered to be printed.

Mr. RANNEY, from the Committee on War Claims, submitted the following

REPORT:

The Committee on War Claims, to whom was referred the petition of B. F. Martin, of Charleston, Tenn., report as follows:

The petitioner asks compensation for the alleged use of his warehouses, dwelling, &c., by the United States military authorities during the years 1864 and 1865. Amount claimed, $550.

The Secretary of War, under date of April 25, 1882, furnished the committee copies of certain vouchers on file in the Confederate archives division of the War Department, in favor of Mr. B. F. Martin, on account of personal services, and sales made by him, to the late Confederate States government.

From considerations arising out of the foregoing statement of facts, the committee report adversely to the petition, and recommend that it do lie upon the table.

O

'H CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1186.

KIRK W. NOYES.

r 3, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

. THOMAS UPDEGRAFF, from the Committee on War Claims, submitted the following

REPORT:

[To accompany bill H. R. 5653.]

: *Committee on War Claims, to whom was referred the bill (H. R. 5653) for the relief of Kirk W. Noyes, report as follows:*

'hat the Adjutant-General, United States Army, under date of March 882, reports as follows:

he records of this office show that Kirk W. Noyes was originally mustered in and ointed first sergeant Company D, First Michigan Sharpshooters, March 31, 1863; noted and mustered in as first lieutenant same company and regiment to date May 865, and honorably mustered out as of the latter grade with his company July 28, 5. On September 13, 1864, a commission as first lieutenant, Company D, First higan Sharpshooters, was issued for him by the governor of Michigan, *vice* First nt. Samuel E. Hudson, of that company, commissioned captain of Company G, and eptember 21, 1864, the following order was issued from headquarters of the regi- t:

[Regimental Orders No. 33.]

mmissions having been received from the governor of Michigan for the following- ed persons, they are hereby assigned to companies, and will take rank and be re- ed in their several grades, as follows:
st Lieut. Samuel E. Hudson, to be captain Company G.
st Sergeant Kirk W. Noyes, to be first lieutenant Company D.
order of Col. Charles V. De Land.

FRANK WHIPPLE,
First Lieutenant and Acting Adjutant.

vacancy existed for Lieut. Samuel E. Hudson, as captain in Company G, from 20, 1864, until May 4, 1865; but he was never mustered in on his commission as owing to the fact that he was absent from the regiment on account of sickness September 29 to December 31, 1864, on which latter date his resignation as first enant was accepted on surgeon's certificate of disability. In consequence of the re of Hudson to secure his muster-in as captain of Company G, no vacancy ex- for Noyes as first lieutenant of Company D until January 1, 1865. On Septem- 0, 1864, he was, however, taken prisoner of war, and did not join his command the latter part of April, 1865. Mr. Noyes was evidently in receipt of his com- ion as first lieutenant on September 21, 1864, and rendered service as such from date. His claim for recognition as first lieutenant from January 1, 1865, the ear- date a vacancy occurred for him, is, therefore, a highly meritorious one; but as department is powerless to recognize him as an officer prior to May 1, 1865, the he was properly and legally mustered in as such, relief can only be afforded by gressional legislation.

our committee are of opinion that the claim of Lieutenant Noyes pay as first lieutenant of Company D from January 1, 1865, to May 865, is just and should be allowed, and report back the bill with the mmendation that it do pass.

TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1187.

MARY BULLARD.

Y 3, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

r. THOMAS UPDEGRAFF, from the Committee on War Claims, submitted the following

REPORT:

[To accompany bill H. R. 2317.]

he Committee on War Claims, to whom was referred the bill (H. R. 2317) for the relief of Mary Bullard, report as follows:

That the petition filed in support of the bill alleges a claim against ie Government of the United States for a horse, valued at $100, ridden to death by her in obtaining aid to rescue captured Union soldiers.

It appears from the affidavits of General David Moore and Capt. David Wilson that Mrs. Bullard was living in August, 1861, at her ome near Etna, Scotland County, Missouri, her husband being a Union oldier. One day she overheard a party of Confederates describing the apture of some Union soldiers and making plans for capturing others. he petitioner at once mounted her best horse, leaving her children lone, and made all speed toward the Union camp, reaching there in eason, and gave the information that was the means of releasing the risoners and capturing their captors. The claimant's horse, however, as so exhausted from the effects of the hard ride that it died next ay. She borrowed one of a soldier and returned it afterward.

The petitioner asks that, inasmuch as the horse died from the effects the service rendered to the United States, she shall be paid its alue.

The first section of the act of March 3, 1849 (9 Stat. at L., page 414), nd the act of June 16, 1874 (18 Stat. at L., page 193), provide for payent for horses and equipments lost by officers and soldiers in the milary service from any exigency. The second section of the first-menoned act provides that when the property of a private citizen is taken to the military service, either by contract or by impressment, and lost, e owner shall be paid its value. The act of July 4, 1864, provides payent for property permanently appropriated for the use of the Army.

The present case falls within the terms of neither of the above acts, et, equitably, every consideration of the wisdom and justice of the act f March 3, 1849, applies herein with equal force.

The committee, in view of the foregoing statement of facts, report ack the bill and recommend its passage.

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1188.

RICHARD MIDDLETON.

MAY 3, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. THOMAS UPDEGRAFF, from the Committee on War Claims, submitted the following

REPORT:

[To accompany bill H. R. 2302.]

The Committee on War Claims, to which was referred the bill (H. R. 2302) for the relief of Richard Middleton, report as follows:

The petition filed in support of the bill alleges a claim against the Government of the United States for money ($600) expended by claimant in recruiting a company of sappers and miners for the Third Maryland Infantry Volunteers.

The entire expense of enlisting, subsisting, and transporting this company was paid by the claimant. No part of these expenses was paid by the State of Maryland, nor has any claim been made by that State of the general government for any part thereof.

The evidence before the committee shows very clearly that in raising this company Captain Middleton expended $600. Although a long time has elapsed since these disbursements were made, it appears that the claimant, since he left the service at the end of the war, has been diligent in seeking the relief which he now asks.

The committee report back the bill with the recommendation that it do pass.

ONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 1189.

LEWIS D. ALLEN.

MAY 3, 1882.—Laid on the table and ordered to be printed.

IOMAS UPDEGRAFF, from the Committee on War Claims, submitted the following

REPORT:

[To accompany bill H. R. 1871.]

nmittee on War Claims, to whom was referred the bill (H. R. 1871) *for the relief of Lewis D. Allen, report as follows:*

petition filed in support of the bill alleges a claim against the States Government for money ($2,000) deposited with the mili- ıthorities at Natchez, Miss., on or about the 19th of July, 1864. pears from the proof submitted that a fine of $2,000 was imposed aimant by United States authorities at Natchez, Miss., for a vio- f the rules and regulations of the post.

:estimony filed in support of the claim is vague and indefinite. nination of the records of the Treasury Department fails to estab- › fact that the money in question was transferred to the agents 'reasury Department.

considerations arising out of the foregoing statement of facts, ımittee report the bill adversely and recommend that it do not

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1190.

SARAH M. THOMAS.

MAY 3, 1882.—Laid on the table and ordered to be printed.

Mr. THOMAS UPDEGRAFF, from the Committee on War Claims, submitted the following

REPORT:

[To accompany bill H. R. 1870.]

The Committee on War Claims, to whom was referred the bill (H. R. 1870) for the relief of Sarah M. Thomas, report as follows:

The petition filed in support of the bill alleges a claim against the Government of the United States for property taken for the use of the United States Army, stated at $16,305.12.

It appears from the proof submitted that the claimant, on February 23, 1872, filed a claim before the Commissioners of Claims for adjudication. The commissioners rejected the claim in 1876 for want of satisfactory proof of loyalty.

The committee are of opinion that it would be an unwise precedent to open the case; and that nothing now appears showing any oversight or manifest wrong, and that the adjudication of the Commissioners of Claims should be final.

The committee therefore report adversely, and recommend that the bill do lie upon the table.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1191.

J. M. HARBISON.

MAY 3, 1882.—Laid on the table and ordered to be printed.

Mr. THOMAS UPDEGRAFF, from the Committee on War Claims, submitted the following

REPORT:

The Committee on War Claims, to whom was referred the petition of J. M. Harbison, of Claiborne County, Tennessee, report as follows:

In this case payment is claimed for quartermaster's stores valued at $6,000, alleged to have been taken and used by the United States military authorities during the late war.

The claim was filed before the Quartermaster-General for adjudication; and it was disallowed for the reason that claimant was disloyal to the United States during the late rebellion.

Your committee have examined the case, and finding that the Quartermaster-General rejected the same after a full and thorough investigation, and that nothing now appears showing any oversight or manifest wrong, report against said claim, in accordance with their rule relating to such cases.

O

ONGRESS, Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1192.

ANTHONY IHMS.

MAY 3, 1882.—Laid on the table and ordered to be printed.

HOMAS UPDEGRAFF, from the Committee on War Claims, submitted the following

REPORT:

ommittee on War Claims, to whom was referred the petition of Anthony Ihms, report as follows:

claim is for brandy, gin, wine, and other liquors alleged to have aken from his store in Alexandria, Va., by United States troops, gust 26, 1862, stated at $3,141.

ppears from the proof submitted that the claimant filed his claim the Commissioners of Claims for adjudication and settlement; e Commissioners rejected the claim for the reason that the liquors eized for violation of some Army regulation, and not as Army sup-

committee have examined the case, and finding that the Commis- s of Claims disallowed the same, after a full and thorough investi- , and that nothing now appears showing any oversight or mani- rong, report adversely to the petition, and recommend that it lie he table.

C

'TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1193.

JOHN J. KEY AND W. G. M. DAVIS.

AY 3, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

r. MANNING, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany bill S. 63.]

e Committee on the Judiciary, to whom was referred the bill (S. 63) for the relief of John J. Key and W. G. M. Davis, having had the same under consideration, beg leave to report:

Alexander Collie recovered judgment against the United States in e Court of Claims, at the December term, 1873, for $925,067.76, proceeds cotton captured by General Sherman at Savannah.

The Court of Claims found "that during the late rebellion, Collie, the titioner, was engaged in running a blockade of the Southern ports by e importation and exportation of merchandise which was not mate- l of war."

The United States took an appeal to the Supreme Court. Pending e appeal, Judge Taft, Attorney-General, consulted John J. Key, esq., attorney at law, as to the possibility of procuring new evidence on ich to apply for a new trial in the Court of Claims.

The government had in its possession, before the trial, evidence to ow that Collie had purchased the cotton in the course of blockade- ning adventures, and as a contractor with the Confederate authori- s and the State authorities of North Carolina for supply of material war, and did fit out ships, and did deliver in Wilmington, N. C., ns and other material of war in fulfillment of such contract. Much the evidence was adduced by the government before the British and nerican Commission at the hearing of the claim made before it by llie for same money, but none of it was adduced before the Court of ims.

Judge Key advised Judge Taft to employ W. G. M. Davis as an as- tant to the Attorney-General, to aid in procuring the new trial, and was so employed and was commissioned. Davis and Key submitted the Attorney-General a written argument on the question whether a w trial could be obtained on evidence which the government had owledge of before the trial.

The Attorney-General referred the question to one of his assistants, o advised that an effort should be made to prove Collie's illegal deal- gs by witnesses in Europe, and by documents not known to the gov- ment before the trial, which evidence could be relied on as newly covered.

The Attorney-General decided to pursue such plan. Davis and Key re employed and commissioned, as appears from a copy of their com-

mission hereto annexed. They went to England and were engaged four months in the service, procuring affidavits of witnesses, copies of public documents, &c., and delivered them to the Attorney-General. They then drew up a petition for a new trial, which Judge Taft signed, and which was duly filed in the Court of Claims.

The Attorney-General then addressed a letter to the Chief Justice of the Court of Claims, stating that Davis and Key were authorized by him to appear in behalf of the government in support of the motion for a new trial. They did so appear, with Assistant Attorney-General R. B. Smith. Mr. Smith and Davis argued in support of the petition.

The Court of Claims granted a new trial. Key and Davis drew up additional pleas, which were adopted by the Attorney-General, and which were filed by his direction. The new trial was obtained by use of the evidence which Key and Davis procured.

Key and Davis examined the witnesses and advised and consulted with the Attorney-General and his assistants in preparing the case for a second trial up to the time when they were informed by Attorney-General Devens that their authority was withdrawn. They stood ready and were prepared to argue the case in the Court of Claims.

Davis prepared a brief upon the questions made by counsel for John Young (assignee of Collie) in the Supreme Court of the United States as to the power of the latter court to remove into it by certiorari the record of the case in the Court of Claims. This Davis did by direction of Attorney-General Taft.

By request of Judge Key, Ex-Attorney-General Taft, on the 6th of June, 1877, addressed a letter to the then Attorney-General Devens, in which he stated that he had employed Key and Davis to go to England to procure testimony to be used to sustain the motion for a new trial, and that he directed such motion to be made, and the proceedings on the appeal be suspended, because he feared to rely on success on the record as it stood in the Supreme Court; that Key and Davis went to England and procured evidence which he considered material, and which was presented to the Court of Claims in support of the motion for a new trial; that a new trial was obtained, and that, in his opinion, the case stood far better, and would, he hoped, be saved. (The letter was written before the final trial in the Court of Claims.) Judge Taft further said that he thought it proper to employ Key and Davis to prepare the case on the motion for a new trial, and to continue to act as assistant counsel in the future conduct of the cause; that they had been faithful, and had performed what they undertook with skill and energy; that he agreed to give them $10 per diem and expenses whilst employed, which would be their only compensation if the application for a new trial failed; but if it succeeded, he expected them to continue their services in the case, and that they should be liberally compensated in the event of final success; that he did not undertake to fix a rate of compensation, but thought they had earned a right to be continued as assistant counsel in the case; and in the event of success to be paid liberally as assistant counsel of the United States in an important case.

It appears from the commission issued to Key and Davis that the compensation spoken of by Judge Taft in his letter was to be fixed in *futuro* by the Attorney-General.

Judge Taft shows what compensation was meant and on what condition any was to be allowed, and when Key and Davis would have the right to demand it; that it was not for procuring evidence abroad, but for the services to be rendered as counsel in the cause generally, to be contingent on final success, and not to be paid until after the final termi-

f the suit. It is apparent from the facts before the committee y and Davis performed their part of the contract, and that the orney-General Devens refused to fix any sum of money to be Key and Davis as compensation for their services as counsel in se, in fulfillment of the obligation entered into by the govern- rough its Attorney-General, to pay them a reasonable compen- or their services as counsel.

ney-General Devens, in a letter written by him, now before the ee, admitted that Key and Davis performed the duties they ok faithfully, and that there was no cause to justify him in dis- them as counsel, such as unfaithful or incapable conduct.

ommittee, therefore, are of the opinion that Key and Davis are to the compensation promised them, and that the amount fixed enate bill is reasonable; that Congress is a proper tribunal to lief in the premises, and that Key and Davis should not be re- e exercise by Congress of its power to give relief in such a case, y therefore recommend the passage of the Senate bill.

EORGE D. ROBINSON, from the Committee on the Judiciary, d the following

VIEWS OF THE MINORITY.

ate bill granting the same relief to the claimants was reported ly by the unanimous action of the Judiciary Committee of the f Representatives in the Forty-sixth Congress, and the bill and ere laid upon the table.

ditional facts beyond those known to that committee are now d, and the undersigned are unable to discover any reason for g the matter and reversing the action of the committee and the

ubject, terms, and character of the employment of Messrs. Key vis were set forth in a communication to each, of which the fol- s a copy:

DEPARTMENT OF JUSTICE,
Washington, July 13, 1876.

u are hereby appointed special assistant to the Attorney-General in the case der Collie against the United States (No. — in the Court of Claims), to pro- avits and testimony upon which to base a motion for a new trial in that case; complish the purposes of this commission, you are authorized, if it shall be , to go to England and Scotland.

vent that a new trial shall be obtained upon the testimony procured by you ommissioned to assist the Attorney-General in the further management of

ll take the oath prescribed for district attorneys, and file the same in this nt.

ur services in this behalf such compensation will be paid you as shall be easonable by the Attorney-General.

y respectfully,

ALPHONSO TAFT,
Attorney-General.

her official record or evidence of their employment, or of the ion for their compensation, is to be found in the Department of but Ex-Attorney General Taft, under date of June 6, 1877, writes, licitation of Messrs. Key and Davis, a letter to the then Attor- eral, Devens, in which he says:

a compensation for them while engaged in this service of $10 per day each ses, which would be their only compensation if we failed, on the evidence

obtained by them, to get a new trial; but if they should succeed in obtaining evidence which secured a new trial, I told them that I should expect them to continue their services in the case and be liberally compensated in the event of final success.

The services of Mr. Key extended from July 1, 1876, to June 22, 1877, and those of Mr. Davis from July 7, 1876, to April 30, 1877. Neither of them took part in the new trial in the Court of Claims or in the final argument before the Supreme Court. They were paid a total sum, for services and expenses, $10,000.27. Of this sum $3,450.27 was for expenses as per the following statement:

John J. Key charges expenses at $5 per day, from July 1 to November 30, 1876.	$765 00
W. G. M. Davis charges expenses at $5 per day, from July 17 to November 30, 1876	730 00
Incidental expenses for 153 days, at $5 per day	765 00
Passport	5 00
Exchange and premium on gold	292 21
Passages and traveling expenses	668 40
Legal expenses, witness and attorney's fees	224 66
	3,450 27

For services, *exclusive of all expenses*, they received $6,550, as follows:

1876.				
Aug.	1.	To J. J. Key for July	$310	
Sept.	1.	To J. J. Key for August	310	
Oct.	2.	To J. J. Key for September	300	
Nov.	1.	To J. J. Key for October	310	
Dec.	1.	To J. J. Key for November	300	
1877.				
Jan.	—.	To J. J. Key for December	310	
Feb.	5.	To J. J. Key for January	310	
Feb.	28.	To J. J. Key for February	280	
March	31.	To J. J. Key for March	310	
May	7.	To J. J. Key for April	300	
1878.				
Jan.	15.	To J. J. Key from May 1 to June 22—53 days	530	$3,570
Aug.	1.	To W. G. M. Davis from July 7 to 31	250	
Sept.	1.	To W. G. M. Davis for August	310	
Oct.	1.	To W. G. M. Davis for September	300	
Nov.	9.	To W. G. M. Davis for October	310	
Dec.	7.	To W. G. M. Davis for November	300	
1877.				
Jan.	11.	To W. G. M. Davis for December	310	
Feb.	28.	To W. G. M. Davis for January and February	590	
March	31.	To W. G. M. Davis for March	310	
April	30.	To W. G. M. Davis for April	300	
				2,980
		Total paid for services		6,550

It will be observed they were paid for each and every day, including Sundays.

The voucher signed by Mr. Key, upon which he received the final payment in January, 1878, is as follows:

United States to John J. Key, Dr.

1877.	
May 31. To salary for the month of May, 1877, as Assistant Attorney-General.	310.00
June. To salary for 22 days of the month of June	220.00
	530.00

Received, Washington, D. C., of David Thomson, disbursing clerk, Department of Justice, five hundred and thirty dollars in full of the above account.

JOHN J. KEY.

In reply to a request made by the Judiciary Committee of the last House, Attorney-General Devens communicated to that committee the acts within his knowledge and of record in his department, and his opinion as to the sufficiency of the compensation which had then been made to the claimants. A copy of the communication is hereto appended:

DEPARTMENT OF JUSTICE,
Washington, March 29, 1880.

Hon. J. D. NEW,
House of Representatives:

SIR: I have your letter of the 23d instant, upon the subject of the Senate bill for the relief of John J. Key and W. G. M. Davis.

This claim grows out of a claim made against the United States by one Alexander Collie and his representatives in bankruptcy. A large judgment—something over $900,000—had been rendered in the Court of Claims against the United States. In that court it seems to have been deemed of importance that the evidence only showed that Collie had been a blockade runner, and not that he had dealt in or carried munitions of war to the insurrectionary States. While it does not seem to me now, and did not seem to my predecessor, as I am informed, important, as it was deemed otherwise by the court it was thought advisable to make a motion for a new trial and reenforce the evidence in regard to the character of the trade maintained by Collie. For the purpose of obtaining evidence in that matter, and also to render all legal aid that might be required, Messrs. Key and Davis were appointed special assistants to the Attorney-General. No written agreement, officially known to me, was made with them except that in their letter of appointment, which is as follows: "For your services in this behalf such compensation will be paid you as shall be deemed reasonable by the Attorney-General."

It was apparent that the evidence could be procured abroad by these agents if access could be obtained to the books of Collie & Co., and, as that firm were in bankruptcy, it was also equally apparent that if one of the clerks could be induced to come to this country, the evidence could be furnished in a form satisfactory to the court that these persons were largely engaged in trading in munitions of war. Messrs. Key and Davis proceeded to England, and made the acquaintance of one Heddel, and, by the authority of the Attorney-General, made a contract with him to come to this country and testify in the case, bringing certain papers with him. His evidence in connection with the papers produced by him and those which were already in the Department of Justice, which he was able to verify, fully established the fact of the trade in munitions of war. He was to receive the sum of $5,000 and his expenses. Messrs. Key and Davis had thus accomplished successfully what they were sent to do, and returned with Heddel, whose deposition was taken in this country, and who received the compensation which, by the authority of Attorney-General, they had promised him.

A motion for a new trial was made in the case, which was argued by Mr. Assistant Attorney-General Smith and Mr. Davis. Service was also rendered by Mr. Key and Mr. Davis, whenever requested, in the preparation of evidence, taking depositions, and other duties in connection with the case. A new trial was ordered by the court. At that new trial in the Court of Claims the case was argued by Assistant Attorney-General Smith, and a judgment was rendered in favor of the United States.

During all this time, which extended over several months, these gentlemen were paid at the rate of $10 a day and their expenses. Of course there were a very large number of days when no service was or could be rendered by them, and during a portion of this period Mr. Davis was absent for many weeks from Washington. The engagement of Mr. Davis was terminated by me on the 30th day of April, 1877, as he had for some time ceased to render service in the matter, and was then supposed to be in Florida. That of Mr. Key was terminated on June 22, 1877, soon after the decision of the Court of Claims.

Mr. Key presented a letter upon his own behalf and that of Mr. Davis, together with the letter addressed by Judge Taft of the date of June 6, 1877, as he states "for the purpose of presenting to you, or whoever may be Attorney-General, a claim for allowance of a reasonable and proper amount, under the agreement, for the payment of a contingent fee after the case is finally determined." I declined to consider that matter then upon the ground, as stated in my letter, that "the result may make it of no consequence, even if we deem the facts to be as you state them, which I am not prepared to do."

The case was afterwards argued by Assistant Attorney-General Smith and myself in the Supreme Court, and the judgment of the Court of Claims was there confirmed. (See Young v. The United States, 97 U. S. Rep., 39.)

Subsequently, on May 20, 1878, Mr. Key addressed, on behalf of General Davis and himself, a letter, making a claim for additional compensation, the case having been

finally decided in behalf of the United States, and suggested the sum of 10 per cent. of the judgment obtained by Collie against the United States as being no more than a just and fair compensation, which sum would have been about $95,000. To this letter I replied: * * * "I consider that there has been paid to you and Mr. Davis all that the government should properly pay you by reason of your connection with the case above referred to, and I can in no way recognize or admit the claim which you have presented for a further allowance."

In your letter you say: "It seems that the total sum thus far paid is $10,000.27 and that that sum was allowed by you. I desire to know whether the sum so allowed by you was or not deemed by you a reasonable and full compensation for their services and expenses, and was allowed by you with that view and for that purpose."

To this I reply that this sum is, in my opinion, a reasonable and full compensation to these gentlemen for their services and expenses. It was allowed by me with that view and for that purpose. They were employed to go and obtain evidence of a particular character, which was probably in existence and the location of which was known. They there obtained it, and returned with the witness. What they had to do was faithfully and properly performed; but I am aware of no peculiar skill that they were required to exercise in the matter. The evidence thus obtained, while it undoubtedly fortified the government's case, was not, in my opinion, indispensable to it. Indeed, Judge Nott, of the Court of Claims, concurring in the opinion of the court, expressed himself, in his opinion, that the case was in precisely the same plight that it was in when first tried, and that the United States had gained no legal point by the new trial; that the sending of munitions of war through a blockade was no more an offense than the sending of bread; that it was a difference in degree and not in kind. (Collie *v.* The United States, 12 Court of Claims, 699.) The compensation which these gentlemen have been paid necessarily involved $10 per day and expenses for many days when they neither did nor were able to do anything in connection with the matter. I do not know of any authority which the Attorney-General has to contract for contingent fees to be paid in case of success by any one. (See 14 Opinions of Attorneys-General, 655, and cases cited.)

2. If I am in error, and if these gentlemen are entitled to any further compensation than that expressed by their written contract with the Attorney-General, by any subsequent or additional contract made with Judge Taft not therein stated, they have a full, complete, and adequate remedy in the Court of Claims—a court which will be peculiarly familiar with the value of their services, and which by law is competent to award them all that, under such additional contract, they are entitled to receive, if anything, the jurisdiction of that court extending to all cases of contract, expressed or implied, with the United States.

3. If anything is to be awarded to these gentlemen for their services by way of gratuity, I deem that Assistant Attorney-General Smith should receive as large a gratuity as both of them. He argued the case on the motion for a new trial in the Court of Claims; he argued the new trial there, and he assisted me in the argument in the Supreme Court. His zeal and ability in the matter was conspicuous. I make this suggestion without his authority. I am certain that all the services he has rendered he expected to render for the moderate salary of an Assistant Attorney-General.

Very respectfully, your obedient servant,

CHAS. DEVENS,
Attorney-General.

There is room for grave doubt whether the Attorney-General is authorized to bind the government to pay attorneys contingent fees. The statutes imply quite the opposite view. Of the policy of such a contract it is unnecessary in this instance to express an opinion.

Messrs. Key and Davis were employed only as assistants to the Attorney-General, and for their services in that capacity they have been paid, and they have receipted in full. (See voucher above stated, signed by Mr. Key. Other vouchers are in the same terms.)

But this whole matter lies within very narrow limits. The claimants contracted for such compensation as should be deemed reasonable by the Attorney-General. They agreed to abide by the determination of that officer, whoever he might be, not alone by the determination of Attorney-General Taft. They have been paid what Attorney-General Devens, during whose incumbency their services were ended, considered reasonable and sufficient.

The present Attorney-General may revise the matter if he shall be satisfied that justice so demands.

'pon a careful consideration of the facts, the undersigned believe t Congress should not be called upon to interfere, and they recom- ıd that the bill be rejected.

GEO. D. ROBINSON.
L. E. PAYSON.
M. A. McCOID.
N. J. HAMMOND.

'TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1194.

APPOINTMENT OF ASSISTANT NAVAL CONSTRUCTORS.

[AY 3, 1882.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Ir. MORSE, from the Committee on Naval Affairs, submitted the following

REPORT:

[To accompany bill H. R. 5827.]

'he Committee on Naval Affairs, to whom was referred the bill (H. R. 5827) to amend section 1402 of the Revised Statutes, relative to the appointment of assistant naval constructors, respectfully report:

The object of this bill is two-fold: first, to reconcile an inconsistency ı the law as it now stands relative to assistant naval constructors; and, econd, to define the qualifications of candidates for appointment as as-istant naval constructors and limit their number and the number of aval contractors.

The inconsistency in the law which this bill is intended to remedy is nown by the fact that while the appointment of assistant naval con-ructors was authorized by law as far back as 1842, their rank as officers f the Navy fixed by the act of 1871 (sec. 1477, Revised Statutes), and heir pay as such officers established by the act of 1870 (sec. 1556, Re-ised Statutes), yet because of the absence of the words "and assistant aval constructors" in the section now intended to be amended, these fficers, with rank and pay defined by law, hold office and their names re borne upon the Navy Register without having been nominated to he Senate and confirmed.

The qualifications of candidates for appointment as assistant naval onstructors are now prescribed by regulation only—not by law.

It is important, in the opinion of the committee, that these qualifica-ions and the standard of excellence should now be fixed by law, and that rovision be made for examination of candidates.

The number of naval constructors and assistant naval constructors is ot now limited by law; there is no restriction in this respect on the ap-ointing power. The number of all other officers of the Navy is fixed. t is proposed in this bill to limit the number of naval constructors to en (there are now eleven commissioned), and of assistant naval con-ructors to ten.

A bill substantially similar to this was introduced in the Senate in he second session of the Forty-sixth Congress, received the recommen-ation of the Secretary of the Navy, and was reported favorably by the enate Committe on Naval Affairs. Owing to lack of time it was not cted on.

The committee therefore report the bill back and recommend its pas-age.

7TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1195.

JOHN N. QUACKENBUSH.

AY 3, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. B. W. HARRIS, from the Committee on Naval Affairs, submitted the following

REPORT:

[To accompany bill H. R. 5303.]

The Committee on Naval Affairs, to whom was referred the bill (H. R. 5303), to confirm the status of John N. Quackenbush, a commander in the United States Navy, submit the following report:

The facts are as follows: In February, 1874, Commander Quackenbush was tried by court-martial for drunkenness; convicted, and sentenced to be dismissed the service. On the 9th of June following the President approved this sentence, but immediately thereafter directed mitigation to a suspension of rank and duty for six years on furlough pay. Since that time his name has been borne on the register in the same relative place it occupied at the time of his conviction, and the mitigation as above stated.

On the next day after the President had fixed the degree and character of his punishment, by an inadvertence in sending in nominations to the Senate, the name of W. S. Schley was sent in, nominating him as commander "vice Quackenbush dismissed," and this nomination was confirmed. This for the time being (Quackenbush's name being still on the Register) made an excess of one on the Register; but this was corrected by withholding any nomination subsequently, until the proper number was reached, thus recognizing the fact that his name was properly there, that he was not regarded as dismissed, but still an officer serving out his mitigated punishment. After this six years expired he was placed on waiting-orders pay, and thus continued until in March last, when the question was for the first time raised as to his having any legal status as an officer.

This grew out of the decision of the Supreme Court of the United States in the Blake case (13 Otto, p. 227), in which it was held that when the President nominated one man in place of another, and that nomination was confirmed by the Senate, the effect was to remove the latter from the service altogether. Since that decision the question has risen whether Schley, having been nominated and confirmed "vice Quackenbush," he was not thereby removed from the service and the object of this bill is to remove that question.

Assuming that such is the effect of the opinion above alluded to, your committee are of opinion that justice and good faith demands that Commander Quackenbush should be restored to his office.

It is clear that it was not intended to remove him from the Navy. If such had been the intention, the President would not have changed the

sentence of dismissal "to suspension of rank and duty for six years on furlough pay," nor would his name have continued on the Register and his pay accorded him, nor would he have been placed on waiting orders. He has served out his sentence with the expectation that at the expiration of the time he would be restored to active duty, and in the opinion of your committee the government is at least in honor bound so to restore him, and but for the decision above referred to, there would have been no hesitation on the subject.

Your committee have made inquiries in regard to his deportment during the period of his suspension, and find that it has been unexceptionable. He is a man of high character, and excepting the offending for which he was court-martialed, his character is without reproach. Since his suspension he has lived a life of sobriety.

Appended herewith will be found the evidence that his sentence was mitigated as hereinbefore stated, that the nomination of Commander Schley vice Quackenbush was a clerical inadvertence, and that his deportment since the time of his sentence has been of the most commendable character.

Your committee further report that the effect of the passage of this bill will not be to do any injustice to any other officer; it is so drafted as to avoid interfering with the status of others who might be affected should his former position be given him.

Your committee, therefore, report said bill back, and recommend its passage.

NEW YORK CITY, *February* 10, 1882.

The PRESIDENT:

The case of Commander J. N. Quackenbush, United States Navy, sentenced to be dismissed in 1874, has just been called to my attention with the hardship attending his case by reason of inadvertency in the nomination of his successor after his sentence had been commuted.

The matter of nomination or promotion in the Army and Navy is regulated by law so that the Executive scarcely thinks to look at the nominations when they are put before him, supposing, of course, they are to fill vacancies. In this way it seems Commander Quackenbush was superseded and now finds himself in danger of being out of the Navy, by a recent decision in another case.

I remember of Commander Quackenbush but not the details of my action. I have no doubt, however, but that the Hon. George M. Robeson, then Secretary of the Navy, knows and remembers all about it.

I do know, however, the intention was not to put him out of the service, and I now recommend his nomination to the vacancy, which was kept open for him from the time of the first vacancy after the promotion of Schley.

The fact that executive action was delayed so long in the case of Commander Quackenbush, at the request of Mr. Samuel Howe, shows quite conclusively that the approval of the sentence and commutation were done at one and the same time. My decision was probably given verbally to the Secretary, and the mistake in the record has been made by a clerk.

Very truly, yours,

U. S. GRANT.

WASHINGTON, D. C., *February* 16, 1882.

To the PRESIDENT:

In the case of Commander J. N. Quackenbush, who was sentenced by court-martial in February, 1874, to dismissal from the Navy, no action was taken by the President for many weeks. Mrs. Julia Ward Howe, with her niece, the wife of Commander Quackenbush, called upon me in regard to this case, and I told them that they needed the direct action of the President, and they must go at once to him, which they did. The same day, after the irinterview, President Grant, on seeing me, took up the case for consideration, and after carefully going over it the President told me that he had delayed previous consideration of the case at the solicitation of his friend, Dr. Samuel

Howe, of Boston, who, on the eve of sailing for Saint Domingo for his health, made s request. Dr. Howe, as Mrs. Howe stated, having just returned from Saint Do-ıgo, was on his way to see the President about this case, and was to meet his niece, s. Quackenbush, in Washington, but was kept in New York by sudden illness. In absence his wife and Mrs. Quackenbush had come. On going over the case with the President approved the findings but directed mitigation of the sentence to pro-ion on furlough pay; this was fixed at six years subsequent to the 9th of June, 1874. 'he action of approval and mitigation was at one and the same time, whatever the ords in the department may appear to show. The direction to me being verbal, l a letter being sent by me at once to Commander Quackenbush, and afterwards in cember, the letter promulgating the finding and mitigation, I may have rested ıtent with my action, and neglected to order, or to make full indorsement on the ords.

'he nomination of Schley "vice Quackenbush" went through in some incompre-ısible manner, and when brought to my attention, as it made an excess of numbers, rdered no nominations to be made for the position shortly after vacated by the re-ement of Morris, which reduced the number of commanders to legal limits.

t will be a great act of injustice if Commander Quackenbush, after serving out his ıtence, shall not be retained in the Navy.

inclose copy of my testimony on this subject.

Very respectfully, your obedient servant,

GEO. M. ROBESON.

WASHINGTON, D. C., *October* 28, 1881.

I have known Commander Quackenbush for over twen ty years. As a young officer was efficient, and his reputation and behavior was very good. About eight years o he came before a court-martial for trial for drunkenness, which appeared to be fully oven, and he was sentenced to be dismissed the service.

It has been my good fortune to have met Commander Quackenbush often in the last w years, and for a season live under the same roof with him. I am satisfied from hat I have seen, heard, and know, that he is entirely free from the vices for which ı was broken. As the president of the court, I came to this conclusion with care, hav-ıg taken every method I could to remove my doubts.

I do not now hesitate to say that Commander Quackenbush is entirely reformed and ompetent to resume his place and duties in the Navy.

A. MURRAY,
Rear Admiral, 1824 *I street.*

BOSTON, *October* 14, 1881.

Having known Commander J. N. Quackenbush, U. S. N., for many years, and had pportunity of meeting him frequently during the last six years, I feel no hesitation n saying that his character and conduct have appeared to me unexceptionable. I am ully aware of the causes which led to his suspension from active duty in the naval ervice, and I speak with special reference to them. Apart from my own observation, I ıave heard nothing but commendation of him, so far as his character and conduct are oncerned, during that period, and I believe him to be worthy of the confidence and espect of those who may be interested in this testimony.

ALEXANDER H. RICE.

Office of the India Mutual Insurance Company, No. 40 State street. John H. Dane, President; W. L. Caverly, Secretary.]

BOSTON, *October* 15, 1881.

This is to certify that I have had personal acquaintance with Commander J. N. Quackenbush for the past five years, and have ever found him a gentleman in his emeanor, strictly temperate in his habits, and, as far as I am capable of judging, a uitable person to hold the position of an officer in the United States Navy.

JOHN H. DANE.

PERKINS INSTITUTE AND MASSACHUSETTS SCHOOL FOR THE BLIND,
South Boston, October 15, 1881.

It gives me great pleasure to be able to testify to the excellent life and the sobriety f demeanor preserved by Commander Quackenbush during the entire course of the eriod of his suspension. He has been in every way worthy, in conduct, conversation, nd manner, of his position as head of a household and father of a family; and all who ave had intercourse with him are, I think, fairly convinced of this fact.

I regard Commander John N. Quackenbush as in every way a reformed man, and believe that he stands on the same plane as other respected and respectable members of the community.

M. ANAGNUS.

BOSTON, *December* 14, 1881.

It gives me great pleasure to bear my testimony to any to whom this may come, that I have had the honor of claiming as friend and parishioner of my church for the past seven years Commander J. N. Quackenbush, United States Navy.

I have known him intimately during this period, and can certify to his unvarying and consistent conduct as a churchman and a communicant, and to a character so ennobled by trouble, so true in all trials and to all duties, and yet as simple and unassuming as it is true, that it won for him the respect of many in this community who are glad to call him their friend—among whom, the writer subscribes himself.

C. C. GRAFTON,
Rector of the Church of the Advent, Boston.

1825 WALNUT STREET,
Philadelphia, October 15, 1881.

DEAR MR. QUACKENBUSH: In answer to your letter of the 13th instant, this moment received, I will briefly state that for three months at the Wentworth House, in the summer of 1880, I saw you daily with your wife and children, and can truly say that I have never known a more devoted and kindly man to his family. As to your habits, I feel certain no man could be more exemplary, never having seen you even take a glass, or heard any one else remark that you were not strictly temperate.

I do not know that I can add anything to the above that would give it any more force. Accept my best wishes for your success, and present my kindest regards to Mrs. Quackenbush, and say to her that Mrs. Haseltine did not receive her letter.

WARD B. HASELTINE.

TREMONT HOUSE, *Boston, October* 14, 1881.

I have been well acquainted with Capt. J. N. Quackenbush for fifteen years, and for the past six years have seen him frequently and been in the way of knowing a good deal of his life and habits, and I take much pleasure in bearing my testimony to his conduct and standing among his friends.

I believe he has been entirely temperate and correct in his habits, and deserves the approbation and encouragement of all, especially that of the Navy Department.

Very respectfully,

H. C. BROOKS.

MISSION HOUSE OF ST. JOHN EVANGELIST,
Stamford street, Boston, October 17, 1881.

MY DEAR CAPTAIN QUACKENBUSH: I am thankful to hear there is hope of your speedy, full reinstatement in your position, and restoration to active service. I am glad to bear my testimony that during the seven years in which I have known you your conduct has been such as fully to warrant this step, and worthy of an officer in the United States Navy.

Pray accept my best wishes for the success of your friends' endeavors on your behalf, and believe me, with true regard,

Very faithfully, yours,

ARTHUR C. A. HALL,
Assistant Rector Church of the Advent, Boston.

Commander J. N. QUACKENBUSH, *U. S. N.*

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52 BOYLSTON STREET.
Boston, October 18, 1881.

In adding my testimony in behalf of Commander J. N. Quackenbush, I wish to say that I have known the gentleman for many years, but more intimately during the past seven or eight years.

I am entirely convinced, as well from personal observation as from the most reliable and intimate sources, that he has totally abstained from the use of alcoholic drinks during the time mentioned, and that his conduct has been most exemplary in every respect.

WM. WESSELHOEFT, M. D.

[Train & Teele, attorneys and counselors at law.]

42 COURT STREET,
Boston, October 17, 1881.

hom it may concern:

gives me great pleasure to say that I have known Commander J. N. Quackenbush he last seven years, during which period he has lived in my immediate vicinity, I believe I am entirely familiar with his habits, character, and mode of life. e is a gentleman, a good citizen, and an exemplary husband and father. I believe during that period he has totally abstained from everything that can intoxicate, has lived an exemplary life. Of his professional qualifications I know nothing, so far as his personal fitness is concerned, I know of no officer better qualified to orm the duties of his station.

CHARLES R. TRAIN.

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241 BEACON STREET,
Boston, December 5, 1881.

EAR SIR: I am glad to express in this letter the gratification which I share with r friends and relatives in reviewing the evidence of your unexceptionable conduct ng the years of probation (nearly eight in number), which have intervened be- en your last active service in the Navy and the present time. Your uniform sobriety gentlemanly conduct during this long period have raised you in the esteem of all know you. I sincerely hope, as do many others, that the consideration of your l record during these years will so weigh with those concerned in your department bring about your speedy restoration to the important duties of your profession.

Yours, sincerely,

JULIA WARD HOWE.

N. QUACKENBUSH,
Commander, U. S. N.

BOSTON, *October* 17, 1881.

aving known Commander J. N. Quackenbush for a little over a year and been uently in his family, where I have met him, I am happy to state that I have y reason to believe that during that time he has practiced *total abstinence* from all xicating drinks; and from the statements of disinterested and reliable friends of character, I believe that he has practiced total abstinence for something over n years continuously. Commander Quackenbush has now been sick in the house er my professional care for about six weeks, suffering from an attack of acute matism.

JAMES B. BELL, M. D.

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82 WATER STREET,
Boston, October 17, 1881.

EAR SIR: I have your note of 14th instant, and am glad to give my testimony in r favor.

have met you often, and I have inquired of others who have been with you more I have, and they all confirm my own observation, that your conduct has been in highest degree satisfactory. They agree with me that they have not seen or heard our doing anything out of the way, and that your habits are, as we can judge, tly moral and have been so during your time of probation. Your reputation for ity in your profession, I never heard questioned; on the contrary, I have heard it en of as of a high order, and I know of no reason why you are not now fully as to discharge the duties of an officer as you ever were.

oping that you may be reinstated so that you may have an opportunity to confirm good opinions expressed by your friends,

I remain, very truly yours,

EDWARD WYMAN.

HN N. QUACKENBUSH,
Commander, U. S. N.

BOSTON, *October* 14, 1881.

m well acquainted with Commander J. N. Quackenbush, and take great pleasure cording my testimony, that for the last seven years I believe that his behavior been uniformly correct, and his reformation bears evidence of being well grounded permanent. I sincerely hope he may be restored to duty in the Navy.

C. J. MORRILL.

NAVY DEPARTMENT,
Washington, April 13, 1882.

SIR: I have the honor to acknowledge the receipt of your communication of the 6th instant, inclosing bill H. R. 5303, "To confirm the status of John N. Quackenbush, a commander in the United States Navy," and requesting my views as to the propriety of the passage of the bill.

In reply, I have to state that it appears to have been the intention of the President, in exercising clemency in the case of Commander Quackenbush, that he should be retained in the service. The sentence of the court as mitigated was fully executed, and during the period of his suspension from duty under that sentence, and until April last, Commander Quackenbush was officially recognized as an officer of the Navy.

It also appears from testimonial letters presented to the department by Commander Quackenbush, that since his suspension from duty in 1874, to the present time, his conduct has been unexceptionable.

In view of all the circumstances in this case, it seems just that Commander Quackenbush should be entitled to the benefit of the clemency which the President evidently intended to exercise in his behalf.

The bill is herewith returned.

Very respectfully,

WILLIAM H. HUNT,
Secretary of the Navy.

Hon. B. W. HARRIS,
Chairman Committee on Naval Affairs, House of Representatives.

TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1196.

EDWARD BELLOWS.

Y 3, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

r. B. W. HARRIS, from the Committee on Naval Affairs, submitted the following

REPORT:

[To accompany bill H. R. 5674.]

e Committee on Naval Affairs, to whom was referred the bill (H. R. 5674) for the relief of Edward Bellows, submit the following report:

The general facts of this case are so fully and concisely set forth in e views of the minority of the Senate Committee on Naval Affairs at we adopt their language:

On the 11th June, 1862, Edward Bellows was appointed an assistant paymaster in Navy of the United States; on the 18th day of July, 1866, pursuant to a nomina- n by the President, he was confirmed by the Senate as a paymaster in the Navy, l commissioned to take rank from the 20th of February, 1866. While in the dis- rge of his duties as paymaster on board the United States steamer Shamokin, at ntevideo, Uruguay, it became necessary for him to negotiate two bills of exchange— for three thousand pounds sterling (£3,000) and the other for four thousand three ndred pounds sterling (£4,300). According to the usual practice in such cases, he w these bills in favor of the commanding officer on Baring Bros. & Co., London. the negotiation of such bills the regulations of the Navy require (see Navy Regu- ns 1865, page 212, section 1181, article 5) that the certificate of two resident mer- nts shall be procured as to the rate of exchange prevailing at the place where the ls are to be negotiated.

n the case of these two bills, this certificate was given by resident merchants in ordance with this regulation, and these certificates upon their faces showed the rate exchange in "American gold." These certificates were not drawn by Paymaster llows, and he had nothing to do with their preparation and presentation.

t Montevideo a merchant by the name of Robert Wilson was usually resorted to by masters, and had been for a considerable length of time prior to the transactions ein referred to, for the purpose of procuring such certificates, and for the purpose making such negotiations. In a number of cases which have been brought to the ention of the committee, as appears by the records on file in the Navy Department, s gentleman had been the medium through whom such negotiations were made, and the cases of the bills above referred to the certificates were procured by him and negotiations made through him. In doing this there was no departure from the ge that had prevailed at that place, and the transactions were conducted in strict ordance with the Navy Regulations above alluded to. These bills were placed in hands of Mr. Wilson for negotiation by Paymaster Bellows, upon the certificates to the rate of exchange in "American gold."

fter the bills were negotiated a charge was made against Paymaster Bellows that bills were negotiated at the rate of exchange in Montevidean currency, and, at t rate of exchange, the proceeds of the bills would exceed by $909.60 what the ceeds would have been had the bills been negotiated at the rate of exchange in merican gold," which rate was stated upon the face of the certificates; and it was ged against Paymaster Bellows that he had defrauded the government out of this n of $909.60. Upon that charge a court-martial was convened, composed of twelve) officers, including the judge-advocate, eight (8) of whom were the juniors of Pay- ster Bellows, including the judge-advocate. This court-martial (without now in- iring into the legality of its organization, by reason of a majority of its members

having been his juniors, whereas a majority should have been his seniors) found him guilty of this charge, and that finding was submitted to Rear-Admiral C. H. Davis for his approval or disapproval, as required by law. Rear-Admiral Davis did not approve of this sentence of this court-martial, but on the contrary expressly declared by his indorsement on the proceedings that this finding was not sustained by the evidence, in the words following, namely:

"Respectfully forwarded, with the remark *that the finding of the court is not sustained by the evidence, which fails to show that the accused received from the bank the amount of money he is charged with having received.*

"C. H. DAVIS,
"*Rear-Admiral, Comg. South Atlantic Squadron.*"

This indorsement is tantamount to a disapproval. The record of the court-martial with this indorsement upon it was forwarded to the Navy Department, and, notwithstanding the indorsement above alluded to, the Secretary of the Navy, on the 28th of January, 1869, issued an order declaring that Paymaster Bellows was dismissed from the service "*in consequence of the facts appearing upon the record of the navy court-martial,*" &c.

On the 16th of March, 1869, the order of the Secretary declaring that Paymaster Bellows was dismissed from the service having been made, the President nominated to the Senate Leonard A. Frailey as a paymaster in the Navy "vice Bellows dismissed," and this nomination was confirmed.

In 1872 Paymaster Bellows petitioned the department for restoration, and no action was taken upon that petition until the 17th of February, 1877, when John A. Bowles, naval solicitor, gave an opinion:

"I respectfully advise the department that this dismissal is *illegal and void*, and Paymaster Bellows is *entitled to an order of revocation and restoration.*"

On the 22d day of May, Naval Solicitor Bowles called the attention of the Secretary to the matter again, and requested that, if the honorable Secretary had any doubts in regard to the illegality of the order of dismissal, he call the attention of the Attorney-General to the same.

The question was referred to Attorney-General Devens, and on the 30th of April, 1879, the Attorney-General rendered an opinion in the case, that *dismissal was illegal and void*, and thereupon on the 22d of January, 1880, the President issued an order declaring *that said order of dismissal was illegal and void*, and revoked the same, and ordered that Paymaster Bellows be restored to the list of paymasters on the Naval Register in the original relative position held by him on that list, and from that time forward he has been discharging the duties of that position, and his name still appears upon the Navy Register in the same order.

Since this action by the President the Supreme Court of the United States has rendered two decisions—one in the case of McElrath (12 Otto, 426), and the other in the case of Blake (13 Otto, 227)—in which in substance it is decided that it is within the power of the President, by and with the consent of the Senate, to remove any officer by putting another in his place; and hence, inasmuch as the President nominated Frailey, "vice Bellows," who was supposed to have been dismissed from the service, although such action was illegal, the result is that Bellows holds the position now *de facto* and not *de jure.*

The list of paymasters is limited by law to fifty (50), and that list is only full with Bellows in as one of the paymasters; and if, therefore, the bill under consideration is passed it will not increase the number of paymasters beyond the limit provided for by law.

Mr. Bellows held by a life tenure, with its attendant possibilities of promotion and retirement, and with its emoluments, the office of a paymaster in the Navy. Under the law he could not be deprived of it "in time of peace, except in pursuance of the sentence of a general court-martial." (R. S., § 1624, Art. 36, page 282.) The law also provides that—

No sentence of a court-martial, extending to the * * * dismissal of a commissioned * * * officer, shall be carried into execution until confirmed by the President. (R. S., § 1624, Art. 53.)

The law further guards the tenure of office by providing a tribunal as free as possible from bias, prejudice, and self-interest. Sec. 1624, R. S., Art. 39, page 283, is, in part, as follows:

A general court-martial shall consist of not more than thirteen nor less than five commissioned officers as members. * * * *But in no case where it can be avoided without injury to the service* shall more than one-half, exclusive of the president, be junior to the officer to be tried.

In this case a court-martial was convened which consisted of twelve commissioned officers, eight of whom were junior to Paymaster Bellows, and three of whom would gain in promotion by his dismissal; but the record nowhere shows that this irregularity could *not* have been "*avoided without injury to the service.*" Mr. Bellows, at the time of the trial, objected to the organization of the court-martial on this ground, and named four members of the court-martial whom he deemed incompetent to sit for this reason; but he was overruled. We think it should appear in the warrant convening the court-martial that this irregularity could not have been "*avoided without injury to the service.*" If it could, in fact, have been avoided without injury to the service (and how can that be now denied in the absence of record proof to the contrary?) then that court-martial was without jurisdiction of the case—all its proceedings were unlawful and its findings and sentence null and void. Courts-martial exercise necessarily very extraordinary and even arbitrary power. But where the statute, as in this matter, clearly defines the rights of the officer to be tried and the qualifications of the members of the court-martial, we think the statute should be strictly regarded and complied with. If such be not the rule, then courts-martial are above all law, and may become the instruments of unrestrained tyranny. We think, for this cause *alone*, the findings of the court-martial which tried Mr. Bellows and its sentence are utterly unlawful, null, and void.

But whether we are right in this or not there are other fatal defects in the proceedings.

1. The findings and sentence were never confirmed by the President.

2. Mr. Bellows was not dismissed in pursuance of the sentence of the court-martial.

3. The sentence of the court-martial was never "approved by the officer ordering the court, by the commander-in-chief, or * * * by the senior officer present," as required by statute (R. S., sec. 1624, art. 52, page 282.)

Secretary Welles, in the language of Attorney-General Devens, undertook "to exercise the power of dismissal which did not then exist."

Mr. John A. Bolles, then solicitor of the Navy, on the 17th February, 1877, in a letter addressed to Hon. G. M. Robeson, Secretary of the Navy, says: "I respectfully advise the department that this dismissal is illegal and void, and that Mr. Bellows is entitled to an order of revocation and restoration." And in a letter of February, 1878, to Hon. R. W. Thompson, Secretary of the Navy, he again says: "The naval solicitor is of the opinion that this order of dismissal is illegal and void."

These views were concurred in by the President and Secretary of the Navy, and on the 22d of January, 1880, after Mr. Bellows had suffered eleven years of dishonor and degradation, the President directed the following order to be issued:

NAVY DEPARTMENT,
Washington, January 22, 1880.

SIR: The order of January 28, 1869, dismissing you from the naval service, having been issued in consequence of the facts appearing upon the record of the naval general court-martial before which you were tried November 16, 1868, and not in pursuance of the sentence of a general court-martial, was illegal, and contrary to the provisions of the fifth section of the act of Congress approved July 13, 1866 (R. S., sec. 1624, art. 52); the said order and dismissal are therefore declared illegal and void, and the same are, by direction of the President of the United States, hereby revoked and annulled.

Very respectfully,

R. W. THOMPSON,
Secretary of the Navy.

Paymaster EDWARD BELLOWS, U. S. N.,
Office of Assistant Treasurer of the United States, San Francisco, Cal.

Mr. Bellows being thus restored to his office was assigned to duty.

But a new complication has arisen. After Mr. Bellows was removed from the service *in fact*, the President, supposing that removal to be a dismissal *in law*, nominated another man as paymaster, "vice Bellows dismissed," and the Senate confirmed the nomination. Since all these things happened, since the order of dismissal was thus revoked and annulled, and since Mr. Bellows has been restored to duty the Supreme Court has decided that a nomination made "vice" A "dismissed," and confirmed by the Senate is itself a dismissal in law of A. Mr. Bellows now finds himself *in* the service but *out* of office. It will not be claimed that the President when he nominated Frailey was conscious that he was removing Bellows. He was acting under a mistake as to Bellows' legal *status*.

It comes down then at last to this, that Bellows was never lawfully removed in pursuant to the findings of a lawful court-martial, nor by any act of the President which had intended reference to him, but by an act done under a mistake as to the *status* and *rights* of Mr. Bellows.

It would seem under these circumstances that he has the strongest possible equitable claim for restoration.

Notwithstanding all this, if we believed that this officer was guilty of the crime charged against him, and for which he was tried, we should not be averse to permitting him to suffer for that crime by the permanent loss of his office, even though that punishment came through a mere technicality. But we are satisfied that he is wholly guiltless of any crime or wrong intent whatever. We have had before us the record of the court-martial, and all the proceedings, evidence, and findings thereof, and fully concur in the indorsement made upon the record of the court-martial by Admiral C. H. Davis, the officer who convened the court, that—

The finding of the court is not sustained by the evidence, which fails to show that the accused received from the bank the amount of money which he is charged with having received.

Mr. Bellows complied strictly with the regulations of the Navy Department in negotiating the bills in question, and obtained the certificate of resident merchants of Montevideo as to the rate of exchange before making the negotiation.

We here insert copies of the account rendered by the London & River Platt Bank of Montevideo, and the certificates thereon of the resident merchants. It will be noticed that the exchange contemplated in both cases is between American and English funds:

Account of sale of one set of exchange numbered 109, drawn by E. Bellows, paymaster of the U. S. ship Shamokin, at 3 days' sight, upon Messrs. Baring Brothers & Co., of London, and payable to the order of Daniel L. Braine, commander, U. S. Navy, for account of the United States Government.

To London and River Platte Bank (limited).

To bill No. 109, for £1,000, amounting to	$14,520 00
Less discount	606 96
Nett proceeds in dollars	$13,913 04

We, the undersigned resident merchants at Montevideo, Uruguay, do hereby certify that the rate of exchange obtained this day, for bills drawn upon London, is fifty-one and three-quarters pence payable in American gold dollars.

JOHN McCALL.
ROBERT WILSON.

MONTEVIDEO, 6th *July*, 1868.

count of sale of one set of exchange numbered 110, drawn by E. Bellows, paymaser of the U. S. ship Shamokin, at 3 days' sight upon Messrs. Baring Bros. & Co., London, and payable to the order of D. L. Braine, commander, U. S. Navy, for account of the United States Gov't.

bill No. 110 for £4,300, at 4.84, amounting to	$20,812 00
ss discount	869 97
Nett proceeds in dollars	$19,942 03

We, the undersigned resident merchants at Montevideo, Uruguay, do hereby certify at the rate of exchange obtained this day for bills drawn upon London is fifty-one ree-quarters pence, payable in American gold dollars.

HOPE LAFONE.
GUG BROWNELL & CO.
J. MACNELLAN.
JOHN W. KRABBI.

MONTEVIDEO, 3 *August*, 1868.

In the first certificate the blanks were filled up in the handwriting of obert Wilson, and in the second by some other person, but in neither es the handwriting of Mr. Bellows appear at all.

The rate of exchange certified to by the merchants was 51¾ pence, and e exchange was made at that rate either in American dollars or in the in of Montevideo. The two bills amounted to £7,300. In £7,300 ere are 1,752,000 pence, which divided by 51¾ pence, the value of the llar, gives $33,855.07.

The whole question in this case is, what, in the understanding of Mr. ellows, were these dollars. Were they the American gold dollars, as e merchants certified they should be, or were they the silver dollars Uruguay? The English pound sterling at that time was worth in nerican gold dollars $4.84, while in the dollars of Uruguay it was orth $4.70.

Whichever dollar formed the basis of exchange, the money received as in English gold coin. Mr. Bellows should have received, if the exange was made on the basis of the American gold dollar, as many unds sterling as $4.84, the value of the pound sterling in American in, is contained in the whole number of dollars, $33,855.07 ÷ 4.84 = 6,994 and $4.06.

The evidence is clear that Mr. Bellows charged himself with this ount and no more, and that his account at the Treasury has been osed and settled on that basis.

If he made the exchange on the basis of the coin of Uruguay to astain the value received by him in English gold, measured by the nerican gold dollar, we shall have to divide the number of dollars, 3,855.07, by $4.70, the value of the pound sterling in the coin of uguay, $33,855.07 ÷ 4.70 = £7,203 and 97 cents. We now have 7,203 unds sterling and 97 cents, worth in American gold, at $4.84 to each und, $34,863.49. Deduct the amount charged to Bellows in his acunt, $33,855.07; difference, $1,008.42.

That there was a loss to the government of this sum of $1,008 there little doubt. That loss was saved either by the bank, by Wilson, or by ellows, for they were the only participants in the transaction. There no evidence that Bellows received one cent more than he accounted . The officer of the bank who paid the money out does not say to om he paid it. Only one bank officer testified or was called, and Wilon never appeared, and refused to appear. The officer of the bank who tually paid out the money was not before the court, as we understand om the record, and also declined to appear.

The only witness who testified that Paymaster Bellows received

money which he did not account for was A. W. Kirkland, lieutenant-commander, United States Navy. Mr. Kirkland, it is but just to say, did not testify from personal knowledge, and distinctly declared that he "was not present at the sale," and knew nothing except what certain papers which he had showed, and what other people told him. But the court seems to have regarded this hearsay as evidence, and to have acted upon it. This witness was made to swear that on the bill for £3,000 Mr. Bellows "did defraud the United States Government of $414 and some cents, about," and that on the bill for £4,300 Mr. Bellows did defraud the United States Government "of the amount of $593 and some cents."

After he had so testified, however, the following questions were put to him and the following answers given by him, which show clearly that he did not pretend to *know* that Paymaster Bellows had received a cent which he had not honestly accounted for of his own personal knowledge:

By judge-advocate. How much money did Paymaster Bellows credit the United States Government with upon Navy bill number one hundred and ten (110), referred to in the second specification of the charge?

Answer. Nineteen thousand nine hundred and forty-two dollars and three cents ($19,942$\frac{3}{100}$), American gold, which in pounds, by Paymaster Bellows' statement, would be four thousand one hundred and twenty pounds (£4,120) one dollar and eighteen cents ($1.18), the latter currency not stated.

By judge-advocate. How much money did he receive for said Navy bill number one hundred and ten (110)?

Answer. Mr. Thomas Jones, manager of the London and River Platte Bank, certified to me that he paid on U. S. Navy bill number one hundred and ten (110) the sum of four thousand two hundred and twenty-two pounds sterling (£4,222) two dollars and seventy-five hundredths of a dollar ($2\frac{75}{100}$), Montevidean money.

By judge-advocate. Was said money paid by the London and River Platte Bank to Paymaster Bellows?

Answer. I do not know.

By judge-advocate. Was the money paid on Navy bill one hundred and nine paid by London and River Platte Bank to Paymaster Bellows?

Answer. I do not know who it was paid to over the counter.

By the court. If you do not know that Paymaster Bellows received the money upon Navy bills numbers one hundred and nine (109) and one hundred and ten (110) how do you know that he defrauded the United States Government of any sum?

Answer. Because it was his duty to have received it, and if he did not receive it in person *he neglected his duty, and thereby the United States was defrauded of that amount.*

The court was here cleared for deliberation.

"*The court was cleared for deliberation.*" What they deliberated upon we do not know, but the last answer of this witness ought to have given them a subject for deliberation and moderation.

The charge which was being tried was this, that Paymaster Bellows had *defrauded* the United States of two sums of money amounting to $1,008; and the total result of all their evidence as summed up by the witness was a *neglect of duty* from which loss resulted, or through which some other person was enabled to *defraud* the United States.

Now a *mistake* in such a matter as this may be censurable and inexcusable, and an officer making such a mistake may well be held on his bond to make good the loss.

Mr. Bellows, in the following letter to his commanding officer, written a few days before the court-martial was convened, stated fully and fairly the whole transaction, admitted the possibility of *mistake*, and asked that his liability for his conduct, be it for a mistake or a crime, "be referred to the Navy Department, allowing him to answer all charges in the United States."

U. S. STEAMER SHAMOKIN, 3RD RATE,
Harbor of Rio de Janeiro, Sept. 13th, 1868.

SIR: I respectfully submit the following statement in relation to the sale of bills of exchange Nos. 109 & 110:

The first bill, for £3,000, sold at 51¼ pence, payable in American gold dollars, gives

in American gold dollars $13,913.04, which is the amount accounted for me, as per certificates furnished. This amount would give in pounds sterling, at United States valuation, £2,874, $2.88.

The same bill for £3,000, if sold at 51¾ pence, payable in Montevidean dollars, gives in Montevidean dollars the same, $13,913.04. This amount would give in pounds sterling, at Montevidean valution, £2,960, $1.04, making a difference of £86, $1.00, between American gold and Montevidean gold, equal in U. S. currency to $417.24.

The second bill, for £4,300, sold at 51¾ pence, payable in American gold dollars, gives in American gold dollars $19,942.03, which amount I accounted for in American gold dollars, as shown by certificates furnished. This amount would give in pounds sterling, at U. S. valuation, £4,120, $1.18. The same bill for £4,300, if sold at 51¾ pence, payable in Montevidean dollars, gives in Montevidean dollars the same amount, $19,942.03. This amount would give in pounds sterling of Montevidean valuation £4,242, $4.63 making a difference of £122, $3.63 between American gold and Montevidean gold, equal in U. S. currency of $594.11. Thus it will be seen that the whole difference rests upon the certificates of sale, for the same amount is given in both cases, the same in dollars and cents; the difference is: American gold dollars are worth 100 cents, andMontevidean dollars are worth in American currency 104 cents; making a difference of four per ct. I claim, therefore, that as the bills were sold for American gold dollars at 51¾ pence, and I was furnished with certificates signed by resident merchants of Montevideo, that it was the rate of exchange C, payable in American gold dollars, that I accounted for every cent.

If I had been furnished with certificates stating that the rate of exchange was 51¾ pence, payable in Montevidean gold, then I should have accounted for more money in American dollars than is shown by my statement. I received my certificates from Mr. Wilson, of Montevideo, and as he has always done the American business, I supposed the certificates were correct. Then, again, Mr. Wilson might have made a mistake in making out the certificates, As bills 109 and 110 have not been sent by me to the accounting officer of the Treasury for audit yet, if there is any mistake it can be easily rectified.

I would respectfully call your attention to the fact that I have been away from home three years, and been in the River Platte twenty-seven months. I have made a full cruise, and am anxious to get home. If I am detained on this station it will necessitate a transfer of all my accounts and public property in my charge, and will complicate my accounts, as well as the paymaster's who may take charge; and then there are no paymaster's books and blanks in store here, which will be required if this transfer is made.

I therefore respectfully remonstrate against being detained on the station a longer period, requesting that the whole thing may be referred to the Navy Department, allowing me to answer all charges in the United States.

I am, sir, very respectfully, your ob'd' serv't,

E. BELLOWS,
Paymaster.

Rear-Admiral C. H. DAVIS,
Com'd'g S. A. Squadron.

We think if that reasonable request had been granted, and care had been taken to secure the depositions of Wilson and the other Montevideo parties who had personal knowledge of the facts, justice would have been secured both to the government and to Mr. Bellows.

Mr. Bellows dealt with an agent with whom, as is shown by abundant evidence on file in the Navy Department, other paymasters of the Navy, drawing bills on London, while in that port, had been accustomed to deal, a resident American merchant of reputation and standing, and he had a right to suppose that Mr. Wilson, the agent, knew the rate of exchange and would give it to him correctly, and he may be excused for having relied upon the written certificates of the merchants, in the absence of all legal evidence, that he corruptly profited by the mistake or error.

Mr. Bellows has suffered sufficiently for his mistake, and on every ground of justice and equity his status in the Navy should be legally established, and he should be restored to the position held by him when his illegal dismissal took place, for we hold that an office in the Navy, legally conferred, is as much the property of the officer as is his purse or his coat, and if he has been illegally deprived of it, or it has been

taken from him through mistake or error, he has a right to ask restoration, with all its original advantages and privileges unimpaired. If, therefore, he is to be restored, he will be justly entitled to occupy his original place, and it will not be just ground for complaint by any junior officer, and no honorable officer will think himself entitled to profit by an injustice inflicted upon his senior in rank. We recommend the passage of the bill.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1197.

H. D. AND H. S. WALBRIDGE.

MAY 3, 1882.—Laid on the table and ordered to be printed.

Mr. CASSIDY, from the Committee on the District of Columbia, submitted the following

REPORT:

[To accompany bill H. R. 4371.]

The Committee on the District of Columbia, to whom was referred the bill (H. R. 4371) for the relief of H. D. and H. S. Walbridge, submit the following report:

This bill, for the relief of H. D. and H. S. Walbridge, has been considered by the Committee on the District of Columbia, and said committee is of opinion the same ought not to pass, for reasons set forth in the letter of William Oscar Roome, chief of special assessment division, which letter is hereto attached, and special reference is hereby made to the same.

OFFICE OF THE COMMISSIONERS DISTRICT OF COLUMBIA,
Washington, February 28, 1882.

SIR: The Commissioners, in response to request made through the clerk of your committee, under date of 23d instant, for information respecting bill H. R. 4371, for the relief of H. D. and H. S. Walbridge, for special assessment levied against them as owners of lot 9, in square 227, have the honor to transmit the inclosed copy of report of the chief of the special assessment division in the matter. The bill is herewith returned.

By order of the Board.

Very respectfully.

J. DENT, *President.*

Hon. H. S. NEAL,
Chairman Committee on the District of Columbia,
House of Representatives.

OFFICE OF THE COMMISSIONERS DISTRICT OF COLUMBIA,
SPECIAL ASSESSMENT DIVISION,
Washington, February 27, 1882.

GENTLEMEN: In reference to paper No. 82804, C. O. (bill H. R. 4371), I have the honor to report that lot 9, square 227, has a frontage of 47.7½ feet on Fifteenth street, and 75 feet on E street.

The front on Fifteenth street was assessed for the improvement of that street $318.88. The assessment was revised under the acts of Congress, and the correct amount was found to be $331.21. Under existing regulations the owner can discharge the debt by paying the lesser bill. This assessment has *not* been paid.

The front on E street was assessed for the improvement of that street $519.51, which was paid as follows:

October 22, 1873	$103 91
February 5, 1875	415 60
Total	519 51

The assessment was revised and reduced to $507.44, and drawback certificate No. 8573, for $12.07, the amount of the reduction, and also No. 12968, for $1.20, for overpayment of interest, were issued to H. D. Walbridge, and delivered to, and accepted by, his duly authorized agent, Peter Campbell, upon power of attorney No. 5886, on file in this office, February 25, 1880.

This lot is not charged on either front in excess of the proper amount, nor for any item of work at a greater ratio than other lots on the same lines of improvement for work of like character.

Both assessments have been carefully revised, and are correct.

Very respectfully,

WM. OSCAR ROOME,
Chief of Special Assessment Division.

The Hon. COMMISSIONERS OF THE DISTRICT OF COLUMBIA.

O

:H CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
1st Session. } { No. 1198.

CHRISTIAN RUPPERT AND OTHERS, TRUSTEES.

Y 3, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

·. CASSIDY, from the Committee on the District of Columbia, submitted the following

REPORT:

[To accompany bill H. R. 6093.]

e Committee on the District of Columbia, to whom was referred the bill H. R. 3011) for the relief of Christian Ruppert and others, submit the ollowing report:

The committee have had under consideration bill H. R. 3011 and re-t the same back, with a substitute, the passage of which they recom-nd.

Ordinarily they would not regard it as advisable to refund any taxes untarily paid, either under a mistake of law or facts. The District of lumbia is interested in a prompt payment of taxes. It is a matter of consequence who pays these taxes so that they are paid. It is the ty of every property-holder to pay the taxes assessed upon his prop-y according to law. He should know what property he owns, and if is ignorant of this, or carelessly pays taxes upon property of which is not the owner, the fault is his own. He cannot ask to have those es refunded. In this instance the parties paying were trustees. ey asked for a list of property owned by their *cestuis que trust.* The lector gave them a list which included other property than that of ich they were trustees. Ignorantly they paid the taxes, and, under the circumstances, we are of opinion they should be refunded.

We decline, however, to allow interest upon the sum paid, inasmuch they were not wholly without fault, and certainly did not exercise st care and caution which they should have exercised when managing property of others.

O

I CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
st Session. } { No. 1199.

WILLIAM BOWEN.

3, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

DEZENDORF, from the Committee on the District of Columbia, submitted the following

REPORT:

[To accompany bill H. R. 1768.]

Committee on the District of Columbia, to whom was referred the bill [. R. 1768) for the relief of William Bowen, respectfully submit the llowing report:

appears from the evidence filed before the committee in this case, certain lots and parts of lots in the city of Washington, viz, lot 2 [uare north of square 853, part of lot 1 in square north of square part of lot 6 in square 849, lots 1 and 7 in square 849, lot 37 in re 545, lots 11 and 12 in square 996, and lots 38, 39, 42, and 43 in re 545, were covered in whole or in part with stagnant water, h affected injuriously the health of the people of the neighborhood, that the board of health, having duly notified the owners of said to abate the nuisance by draining or filling said lots, the owners d so to do, after having been duly notified as aforesaid. That the William Bowen, on the —— day of 187—, made a proposition to board of health of the said city of Washington to abate the nuisances e referred to, by filling the lots above named in the manner pre- ed in the report of the surveyor of the District of Columbia, ap- ed by the governor of said District, without cost to the said board alth or the said District of Columbia, provided, said board would e return of the cost incurred in filling up or draining the same, to nd that the amount thereof might be assessed as a tax upon said erty, to be placed in the hands of the collector of taxes for collec- &c., and that the said board of health believed that such returns certified would be a good and sufficient surety for said Bowen, and nformity with law.

e proposition of said Bowen was accepted by the said board of h, and the said Bowen performed the work according to the con- well and thoroughly, and abated the nuisance, and the tax bills made out against the said property in accordance with the agree- with said Bowen. The assistant attorney for the District of Co- ia gave an opinion which declared the assessment as aforesaid ille- thus preventing the said Bowen from obtaining compensation for ork in the manner provided for by the agreement. The work per- ed by said William Bowen under the agreement with the board of h, as certified by the surveyor of the District, as shown by his cer- tes filed with this committee, amounted to $5,213.38.

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1200.

PAYMENT OF WORKMEN UNDER BOARD OF PUBLIC WORKS.

MAY 3, 1882.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. NEAL, from the Committee on the District of Columbia, submitted the following

REPORT:

[To accompany bill H. R. 5058.]

The Committee on the District of Columbia, to whom was referred bill H. R. 5058, report the same back with sundry amendments. They are of opinion that the matters presented in the bill, as amended, deserve the careful consideration of the House.

O

7TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1201.

TO REFUND THE M. G. EMERY ASSESSMENTS.

AY 3, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

r. NEAL, from the Committee on the District of Columbia, submitted the following

REPORT:

[To accompany bill H. R. 6094.]

he Committee to the District of Columbia, to whom was referred the bill (H. R. 2939) to refund the M. G. Emery assessments, submitted the following report:

That they have had said bill under consideration and have arrived at ıe conclusion that the substitute herewith reported should become a ıw. The facts are, that M. G. Emery was elected mayor of Washing- ›n prior to February 21, 1871, and had a municipal council to manage ıe affairs of the city of Washington. That in pursuance of authority ›nferred by law, said municipal authorities ordered the improvements f certain avenues and streets, and made an assessment upon the prop- ·ty abutting upon said streets and avenues for the payment of the ıme; these assessments were made subsequent to February 21, 1871, ıe day of the approval of the act entitled "An act to provide for a ›vernment for the District of Columbia." The Emery government re- sted the establishment of the government in said act provided, and ›ntinued to exercise the functions of authority as aforesaid until it as judicially determined that the act was legal and constitutional, hen they ceased longer to exercise said functions. The board of public orks, created by said act, upon entering upon the discharge of their ıties, established a different grade for the streets and avenues, im- :oved under the Emery government, tore up the pavements which ıd been laid, and reassessed the property for said improvements, by hich said property was made liable to a double assessment, a very :eat hardship and a gross injustice to the persons unfortunate enough › own property thus doubly assessed.

Your committee are of opinion that but one of these assessments ıould be paid, and therefore report a substitute for the bill providing ›r the redemption of said assessment certificates.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1202.

COLLECTION OF TAXES IN THE DISTRICT OF COLUMBIA.

MAY 3, 1882.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. NEAL, from the Committee on the District of Columbia, submitted the following

REPORT:

[To accompany bill H. R. 6095.]

The Committee on the District of Columbia, to whom was referred the bill (H. R. 6095) to provide for the collection of taxes in the District of Columbia, and for other purposes, submitted the following report:

That said committee have had under consideration bill H. R. 5845, to provide for the collection of taxes in the District of Columbia, and for other purposes, report the same to the House with a substitute, and recommend the passage of the same.

The committee deem it only necessary to state why the bill should become a law, that the taxes in arrears, or that are delinquent, amount to over $1,000,000, and that about 20 per cent. of the current taxes are not paid, simply because of the insufficiency of the present laws. The committee are confident that if the bill reported becomes a law there will not only be no arrears hereafter, but that a large proportion of the present delinquencies will be paid within a, comparatively speaking, short time. It is folly for government to provide for the assessment of taxes unless adequate provision is made for the collection of the same.

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1203.

TO EXTEND THE PUNISHMENTS PROVIDED FOR IN SECTION 4596 OF THE REVISED STATUTES OF THE UNITED STATES.

MAY 3, 1882.—Referred to the House Calendar and ordered to be printed.

Mr. BUCK, from the Committee on the Revision of the Laws, submitted the following

REPORT:

[To accompany bill H. R. 6096.]

The Committee on the Revision of the Laws, to whom was referred the bill (H. R. 3) amending section 4596 of the Revised Statutes of the United States, having had the same under consideration, respectfully report:

That they recommend the passage of the accompanying substitute bill, providing that the punishment of seamen provided for in said section shall be extended to all persons who may sign a contract to perform any voyage.

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1204.

ADDITIONAL COMPENSATION FOR SUPERVISORS OF CENSUS.

MAY 3, 1882.—Committed to the Committee on Appropriations and ordered to be printed.

Mr. PRESCOTT, from the Committee on the Census, submitted the following

REPORT:

[To accompany bill H. R. 6097.]

The Committee on the Census, to whom were referred the several memorials of the supervisors of census of the different States, asking for additional compensation, would respectfully report:

That under the act to provide for taking the tenth and subsequent censuses, passed March 3, 1879, sections 5 and 6 thereof provide:

SEC. 5. Each supervisor of census shall be charged with the performance within his own district of the following duties: To propose to the Superintendent of Census the apportionment of his district into subdivisions most convenient for the purpose of enumeration; to desiginate to the Superintendent of Census suitable persons, and, with the consent of said Superintendent, to employ such persons or enumerators within his district, one for each subdivision, and resident therein, who shall be selected solely with reference to their fitness, and without reference to their political or party affiliations, according to the apportionment approved by the Superintendent of Census; to transmit to enumerators the printed forms and schedules issued from the Census Office in quantities suited to the requirements of each subdivision; to communicate to enumerators the necessary instructions and directions relating to their duties, and to the methods of conducting the census, and to advise with and counsel enumerators in person and by letter, as freely and fully as may be required to secure the purposes of this act; and, under the direction of the Superintendent of Census, and to facilitate the taking of the census with as little delay as possible, he may cause to be distributed by the enumerators, prior to the taking of the enumeration, schedules to be filled up by householders and others; to provide for the early and safe transmission to his office of the returns of enumerators, embracing all the schedules filled by them in the course of enumeration, and for the due receipt and custody of such returns pending their transmission to the Census Office; to examine and scrutinize the returns of enumerators, in order to ascertain whether the work has been performed in all respects in compliance with the provisions of law, and whether any town or village or integral portion of the district has been omitted from enumeration; to forward to the Superintendent of Census the complete returns of his district in such time and manner as shall be prescribed by the said Superintendent, and in the event of discrepancies or deficiencies appearing in the returns from his district, to use all diligence in causing the same to be corrected or supplied; to make up and forward to the Superintendent of Census the accounts required for ascertaining the amount of compensation due under the provisions of this act to each enumerator of his district.

SEC. 6. Each supervisor of census shall, upon the completion of his duties to the satisfaction of the Secretary of the Interior, receive the sum of five hundred dollars in full compensation for all services rendered and expenses incurred by him, except an allowance for clerk hire may be made at the discretion of the Superintendent of Census.

It is admitted by the memorialists that they have received the five hundred dollars provided to be paid by section 6, "in full compensation

for all services rendered and expenses incurred." They claim that they were appointed before the amendment of April 20, 1880, but as such amendment does not increase but lessens their duties no claim for additional compensation can be grounded thereon.

It does not appear that they performed any additional duties or labor than was fully covered by section 5, before set out, or than was inferable from their appointment, but it is claimed it required a large amount of administrative ability to discharge the duties of the office, and was a much more responsible and laborious position than they expected when they sought the appointment.

With reference to this claim, your committee have received the following communication from the Superintendent of Census:

DEPARTMENT OF THE INTERIOR, CENSUS OFFICE,
Washington, D. C., March 22, 1882.

SIR: I have the honor to be in receipt of your communication requesting the views of this office upon the memorial of certain persons, late supervisors of census, addressed to Congress, asking an increase of compensation for the services performed by them in that capacity.

This office will always cheerfully acknowledge the valuable services rendered by the supervisors of the tenth census, and cannot fail to appreciate the great labor and heavy responsibility involved in the satisfactory discharge of the duties imposed upon the incumbents of that office by the act of March 3, 1879.

The matter of an increase of compensation may be looked at from several points of view—

1st. In comparison with the compensation allowed to United States marshals for supervising the census under the act of May 23, 1850.

By the provisions of that act, "whenever the population returned in any district exceeds one million, the marshal thereof shall be entitled to receive as a compensation for all his services at the rate of one dollar for each thousand persons; but if the number returned be less than a million in any district, the marshal thereof shall be allowed for his services at the rate of one dollar and twenty-five cents for each thousand persons, but no marshal shall receive less than two hundred and fifty dollars. And when the compensation does not in the whole exceed the sum of five hundred dollars, a reasonable allowance for clerk-hire, to be determined by the Secretary of the Interior, shall be made."

Under this provision of law, the amount paid to United States marshals at the ninth census, 1870, was $56,168.80. An analysis of this sum shows that $46,989.34 was paid to the marshals as compensation for their services, and $9,179.46 for clerk-hire.

Subsequently to the census of 1870, Congress provided by the act of June 8, 1872, "That where it is made to appear by proof satisfactory to the Secretary of the Interior that, in taking the ninth census, the total disbursements of any United States district marshal, necessarily made, have been in excess of his total receipts on account of services rendered by him in taking said census, the Secretary of the Interior may allow such marshal such a sum, in addition to what has been heretofore allowed him, as shall be found necessary to reimburse such marshal for such excess of necessary expenditure, not exceeding one thousand dollars in any one case."

The amount reimbursed to marshals under the provisions of this act was $13,069.71.

The amount paid to supervisors of census for their services in connection with the tenth census was $75,000, and for clerk-hire $52,069.24.

The only important difference between the provisions of the act of 1850 and that of 1879, as to the amount of work in preparation for the census, and in supervision of it, is found in the requirement of smaller districts under the later act, involving an increase more or less closely corresponding thereto in the amount of correspondence involved.

On the other hand, the abridging of the term of the enumeration tended to bring the work of the supervisor into shorter compass.

2d. In administering the act of March 3, 1879, the Census Office did everything within its power to reduce the labor and responsibility devolving upon supervisors which was found consistent with the requirements of law and the interests of the service. Supervisors were furnished with letter-heads and printed forms so far as the central office could foresee the necessity therefor. Whenever the supervisors requested it the schedules were mailed from Washington to the individual enumerators; *and in the matter of deficiencies or inaccuracies* occurring in the returns made by the enumerators the correspondence, *in the vast preponderance of instances, was had directly with the enumerators.*

[oreover, the Census Office, from a fair and reasonable regard to the practical diffi-
ties of an enumeration extending over a country like ours, confined its demands
the correction and completion of schedules to matters which appeared really im-
tant. With a punctilious disposition animating the central office, supervisors and
merators would have been kept much longer "*on the books,*" *and been subjected to
more extensive requirements.*

1. In comparison of the amount and character of the work done by supervisors of
sus with that done by persons holding other offices under the United States Gov-
ment, the request of the late supervisors of the tenth census for additional com-
sation appears highly reasonable.

am informed by the late Superintendent of Census that prior to the commence-
nt of the enumeration he called the attention of the Census Committees of both
House and the Senate to the inadequacy of the compensation provided, and sug-
ted an increase of the amount from $500 to $700. With the experience which this
ce has since acquired of the difficulties of conducting the work, and with the view
ntertains of the high character, ability, and zeal brought to the discharge of that
y by the gentlemen who supervised the enumeration of 1880, the disposition to
ommend an increase of compensation would not be diminished, but rather increased.

he distinguishing difference between the supervision of the census of 1880 and that
1870 was that at the earlier census the United States marshals, whose time and
ngth were fully occupied by their regular duties in connection with the courts and
enforcement of the laws, and who were often necessarily absent from their offices
the time when, for census purposes, they were most needed there, were, in a large
portion of instances, obliged to give the practical charge of the census work to
ordinates, not known to the Census Office, of necessity poorly paid (as the mar-
ls did not know in advance that clerk-hire would be allowed), and, by consequence,
n not the persons who would have been selected for such an important, such a
itically momentous work.

'he supervisors of 1880 actually did the work charged upon them by law. *They
e, on the average, five months of solid time to their duties.* They did that work in gen-
l with marked ability, high conscientiousness, and a laudable ambition to cause their
pective districts to be fairly and well represented in the census. The work they
was certainly more important, in a right view of the matter, than the work done
postmasters or collectors of revenue or marshals of the courts. It was work of the
hest consequence politically, and requiring more than the energy, intelligence, and
ivity involved in the reasonably satisfactory discharge of the duties of the ordi-
y office-holder.

'or such a service $500 must seem small. No difficulty was experienced in securing
d men for the position; possibly no difficulty would be experienced in filling the
ces again; but if the compensation allowed for the service be compared with that
d for less onerous and less important services in other offices of the government, it
st be pronounced inadequate.

Very respectfully,

C. W. SEATON,
Superintendent of Census.

Ion. C. D. PRESCOTT,
Chairman Census Committee, United States House of Representatives.

DEPARTMENT OF THE INTERIOR, CENSUS OFFICE,
Washington, D. C., April 17, 1882.

IR: In reply to your communication of the 11th instant, I beg to say as follows,
:

. The names and residences of the supervisors of the tenth census, with the num-
of enumeration districts under the supervision of each, will be found on page
XXII of the population volume, a copy of which I forward herewith.

. Supervisors did examine, and, to a limited extent, return for correction the sched-
s of enumerators.

. In a few exceptional cases the schedules of enumerators were returned by this
ce direct to the enumerators for correction, or for information not properly sup-
d. No pay was made to enumerators for such corrections.

. I beg to quote from a letter of instructions, which was addressed by the late
perintendent during the progress of the enumeration to one of the supervisors, and
ich will show the position of the officer relating to the subject of your inquiry:

* * * * * * *

'It is not the view of this office that supervisors should be expected to examine
schedules of enumeration further than to satisfy themselves that the whole field

has been covered by the enumeration; that the work has been well and perfectly done in compliance with law and instructions.

"The supervisor cannot be expected to verify all individual entries upon the schedules, or even to know single cases of the omission of the information required. Whenever the supervisor has reason, from any cause, to distrust the integrity or completeness of the work of any enumerator, a full and careful investigation shall be made.

"When a reason exists for supposing that the work has not been well and properly done, in accordance with the law and the enumerator's oath of office, it is sufficient that the returns should upon their face appear to be complete and correct, and that the aggregate results of the enumeration should be within the bounds of reasonable probability."

* * * * * * *

Very respectfully,

C. W. SEATON,
Superintendent of Census.

Hon. C. D. PRESCOTT, M. C.,
Chairman Census Committee, House of Representatives.

Supervisors' districts by States and the number of enumerators to each supervisor's district.

State.	Supervisor district.	Number of enumerators.	State.	Supervisor district.	Number of enumerators.
Alabama	1	287	Louisiana	2	54
Do	2	180	Do	3	93
Do	3	125	Do	4	76
Do	4	160	Maine	1	211
Arizona	1	41	Do	2	210
Arkansas	1	300	Maryland	1	163
Do	2	226	Do	2	101
California	1	268	Do	3	168
Do	2	116	Massachusetts	1	101
Do	3	171	Michigan	1	316
Do	4	112	Do	2	254
Colorado	1	108	Do	3	414
Connecticut	1	160	Do	4	45
Do	2	164	Minnesota	1	300
Dakota	1	127	Do	2	250
Delaware	1	57	Do	3	224
District of Columbia	1	107	Mississippi	1	211
Florida	1	172	Do	2	158
Georgia	1	199	Do	3	158
Do	2	143	Missouri	1	208
Do	3	100	Do	2	186
Do	4	146	Do	3	159
Do	5	101	Do	4	144
Idaho	1	34	Do	5	214
Illinois	1	253	Do	6	298
Do	2	236	Do	7	304
Do	3	302	Montana	1	29
Do	4	258	Nebraska	1	360
Do	5	223	Do	2	195
Do	6	241	Nevada	1	56
Do	7	205	New Hampshire	1	278
Do	8	170	New Mexico	1	58
Indiana	1	182	New Jersey	1	212
Do	2	192	Do	2	190
Do	3	214	Do	3	152
Do	4	332	New York	1	681
Do	5	188	Do	2	331
Do	6	210	Do	3	143
Iowa	1	357	Do	4	165
Do	2	357	Do	5	195
Do	3	263	Do	6	1[illegible]8
Do	4	255	Do	7	256
Kansas	1	194	Do	8	277
Do	2	401	Do	9	243
Do	3	327	Do	10	236
Kentucky	1	218	Do	11	205
Do	2	242	North Carolina	1	139
Do	3	114	Do	2	317
Do	4	215	Do	3	215
Do	5	130	Do	4	241
Louisiana	1	202	Ohio	1	243

ervisors' districts by States and the number of enumerators, &c.—Continued.

State.	Supervisor district.	Number of enumerators.	State.	Supervisor district.	Number of enumerators.
.....	2	220	Tennessee.....	3	267
.....	3	216	Do	4	174
.....	4	198	Do	5	178
.....	5	233	Texas	1	109
.....	6	243	Do	2	132
.....	7	241	Do	3	208
.....	8	247	Do	4	160
.....	1	146	Do	5	166
nia	1	689	Do	6	154
.....	2	182	Utah	1	107
.....	3	249	Virginia	1	121
.....	4	209	Do	2	196
.....	5	245	Do	3	144
.....	6	170	Do	4	92
.....	7	279	Do	5	111
.....	8	247	Vermont	1	268
.....	9	272	West Virginia	1	227
.....	10	278	Do	2	162
nd	1	163	Washington Territory	1	65
lina	1	170	Wisconsin	1	273
.....	2	175	Do	2	268
.....	3	142	Do	3	243
.....	1	230	Do	4	241
.....	2	149	Wyoming	1	30

amination of these figures will convince any one that while in-
nas doubtless been done to some of the supervisors, that injus-
be still more emphasized by any equal allowance to supervisors
tional pay.

of these supervisors have earned more than they have received,
nave been fully paid. Massachusetts' one supervisor had im-
pon him the labor and responsibility of 901 enumerators; Rhode
one supervisor only that of 163 enumerators. Each has so far
l the same pay ($500). Neither has asked for additional com-
on, and stand by their contract under the law. The average
of enumerators to each supervisor was 208.

ninority of the committee believing that it is a bad precedent to
a fixed accepted salary by gratuities; and believing that if the
sors shall receive more, then the 31,302 enumerators, who are
d to be the least paid for their services rendered of any of the
ill be stimulated to apply, with more right and justice than the
sors, as the enumerators' compensation was not prescribed by
st these two having been granted additional compensation, then
ill follow claims by all the smaller post-offices in the country
re by reason of the census compelled to handle and provide for
amount of non-paying additional mail matter; that after that
ill be claims made by the mail contractors and others; in fact,
laims will end cannot be even imagined, our statutes showing
last Congress considered and paid claims arising out of the
nd ninth censuses.

ithstanding these views of the minority, a majority of the com-
in consideration of the responsible character of the duties im-
pon the supervisors, believing the payment made inadequate,
end that they be paid an additional sum of $500 apiece, and for
pose report by bill therefor.

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1205.

LITTLE ROCK AND FORT SMITH RAILROAD LANDS.

MAY 3, 1882.—Laid on the table and ordered to be printed.

Mr. REED, from the Committee on the Judiciary, submitted the following

REPORT:

The Committee on the Judiciary, to whom were referred sundry bills relating to the forfeiture of land grants to certain railroads, having had the same under consideration, desire to report in part as to the Little Rock and Fort Smith Railroad.

The Little Rock and Fort Smith Railroad should have been completed May 13, 1877, under the provisions of the act of July 28, 1866.

The Secretary of the Interior, in Executive Document 144, first session Forty-seventh Congress, states that—

> The road was fully completed from Little Rock to a point on the Arkansas River, opposite Fort Smith, prior to August, 1876, but as a small portion of the road (1.92 miles) was found to lie within the Indian Territory, the department declined to accept such portion of the road. The Commissioner of Indian Affairs subsequently required the company to remove their road from the Territory. In consequence of this action, 5.73 miles of the road were not completed within the time required by the act. This section of 5.73 miles was accepted by the then Secretary of the Interior February 25, 1879.
>
> This office has always considered and treated this road as having been constructed in time.

We find upon investigation that the 1.92 miles were constructed by the company under the belief that they had such a consent on the part of the Indians as made the construction legal. When the department decided adversely to this view and required them to remove the track, it was done and the road built into Fort Smith by another route, which was 5.73 miles long, which new route was accepted by the Land Office and the Secretary of the Interior.

January 9, 1882, the Secretary of the Interior approved of two lists containing, respectively, 139,567.37 acres and 720 acres, which added to the amount heretofore certified and patented would be sufficient to satisfy the grant. These lands, however, have not been patented to the company on account of the introduction of the bills referred to us.

We are informed that the company have nearly completed the sale of the lands in question to parties who will cause their settlement by emigrants, but that the sale is delayed because the proposed grantees decline to accept any other title than that which is founded on a United States patent.

Under this state of facts your committee deem it right to report that no fact has been presented to them, and no reason suggested, why the Secretary of the Interior should not issue to the Little Rock and Fort Smith Company any patents of lands which by law he decides that they have earned.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1206.

COMPENSATION OF INTERNAL REVENUE GAUGERS.

MAY 3, 1882.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. DUNNELL, from the Committee on Ways and Means, submitted the following

REPORT:

[To accompany bill H. R. 5642.]

The Committee on Ways and Means, to whom was referred the bill (H. R. 5642) to define the limitation of compensation of internal revenue gaugers, submit the following report:

The committee recommend the passage of this bill for the reasons set forth in the letters of the Secretary of the Treasury and the Commissioner of Internal Revenue, which are herewith annexed.

TREASURY DEPARTMENT,
March 22, 1882.

SIR: I have the honor to inclose herewith a letter from the Commissioner of Internal Revenue, dated the 20th instant, inclosing the draft of a bill defining the limitation of compensation of internal revenue gaugers, which he recommends as more clearly expressing the intention of the laws now in force, adopted at the suggestion of his office.

The object is, as you will see, to remove any doubt as to the gaugers' right to compensation when employed in performing duties connected with gauging, or in traveling to and from their places of assignment to duty.

I recommend the passage of this bill at as early a day as possible.

Very respectfully,

CHAS. J. FOLGER,
Secretary.

Hon. WM. D. KELLEY,
Chairman of Committee on Ways and Means,
House of Representatives.

TREASURY DEPARTMENT, OFFICE OF INTERNAL REVENUE,
Washington, March 20, 1882.

SIR: The First Comptroller of the Treasury has expressed the opinion that the laws relative to fees of internal revenue gaugers might be so construed as to limit compensation to days employed in gauging, thus excluding time necessarily consumed in traveling from one place of duty to another, and requiring fees to be computed on each day's work, instead of on the whole amount gauged in the month.

In order to more clearly define the laws limiting the compensation of gaugers now

in force, which provisions were adopted at the suggestion of this office, I would recommend that they be amended and defined as per the inclosed form of a bill.

The effect of this amendment will not be to increase the compensation of gaugers, but simply to make more clear what, in the opinion of this office, was intended by the laws now in force.

Respectfully,

GREEN B. RAUM,
Commissioner.

The Hon. SECRETARY OF THE TREASURY.

TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1207.

E ELECTION OF PRESIDENT AND VICE-PRESIDENT OF THE UNITED STATES.

3, 1882.—Recommitted to the Committee on Law Respecting the Election of President and Vice-President and ordered to be printed.

THOMAS UPDEGRAFF, from the Committee on Law Respecting the lection of President and Vice-President, submitted the following

REPORT:

[To accompany bill H. R. 5569.]

Committee on Law Respecting the Election of President and Vice-President, to which was referred the bill H. R. 5569, reports as follows:

pon no subject, perhaps, is there a greater variety of opinion than n that embraced in the bill reported herewith.

here are those who contend that under the provisions of the Constion of the United States the power to count the electoral vote for sident and Vice-President is devolved upon the President of the ate, and that the declaration of the result by him is final and consive. Others claim with equal earnestness that this counting power des in the two houses of Congress. Others again claim that the unt" mentioned in the twelfth article of the Constitution is to be made the President of the Senate; but, being made by a non-judicial trial, without opportunity for hearing allegations and proofs, and the stitution, instead of declaring it final and conclusive, expressly proing in the same connection that "the person having the greatest nber of votes (meaning, of course, true legal votes) for President ll be the President, if such number be a majority of the whole num- of electors appointed," the ordinary rule, that such counts are nonclusive and subject to judicial review, applies; and it is merely a isterial enumeration in the ordinary qualification of the word unt"; and that when serious dispute arises, involving the ascertaint of extrinsic facts, and the construction, interpretation, and apation of law, a solution can be properly and regularly reached only ough the exercise of functions purely judicial, and which, unless exssly conferred or necessary to the execution of an express power, not, under our Constitution, be exerted by either the Congress or the sident of the Senate. Others doubt the power of the Congress to fer upon the courts the jurisdiction to try a contested Presidential tion, and fear the legislative and executive departments may deny just authority of the judiciary to bind them to its construction of Constitution and laws; while, on the other hand, it is claimed that horized judicial interpretation is binding upon all persons, official l unofficial.

Iany other shades of opinion prevail in the most respectable quar-; and of this variety your committee has its full share.

So much as to the manner of electoral birth. The imagination can easily draw the same parallel between a Presidential and an ordinary election with respect to the time, place, and manner of voting and transmitting results. Is it not, therefore, apparent that between the place where State power terminates, the birth or creation of the elector, and the final declaration of the result of the election, a field of inquiry and dispute exists as broad as that which is included in every popular election? And if, in cases of controversy, a determination upon allegation and proof be necessary and proper in one case, why not in the other? Of the extent of this field of controversy more will be seen further on. Remembering, now, that if philosophy and experience have made anything in jurisprudence elementary, the following propositions have been so rendered: It has not been given to human skill to frame commands into language that all will understand alike, and that shall need no interpretation; nor to human wisdom to foresee and provide by written law for every possible and complex case that may arise in the future. If this be true, to attempt it is futile.

III. In the decision of every question arising, the two Houses must act as separate, independent bodies; each House having one vote. If there be a non-concurrence, no action is possible. To overcome this anomaly it is provided that in certain conditions a vote shall be counted unless both Houses reject; and in certain other conditions a vote shall *not* be counted if either House objects.

It is assumed by the writer that a bill which provided that no vote could be counted if one only of the Houses objected, would meet with universal disapproval. It will be found, however, that no bill for a Congressional count has ever been suggested, although containing the foregoing provisions, which will not be found in actual practice to contain this essential vice. In other words, notwithstanding the effort made in the first eight sections of the bill reported herewith, or in any other scheme for a Congressional count heretofore suggested, to provide for a class of cases in which a vote shall not be rejected without a concurrence of both Houses, it will be found, in practice, that either political party can, beforehand, so arrange the facts as to transform every such case into one of the other class, and thus nullify the provisions and enable a partisan majority in either House to disfranchise any State or refuse, while yielding obedience to the law, to count any vote. This anomaly proceeds from no want of care, or skill, or legal acumen, but from attempting the impossibility of making a deliberative body out of two constituents without an umpire. It is believed there is no middle course. It must be provided either that no vote shall be *counted* without concurrence, or none shall be *rejected* without concurrence. Neither proposition would be acceptable.

This proposition and the two preceding, which assert the judicial character of the proceedings involved, and the impossibility of forecasting and providing self-interpreting rules for all future contingencies, may, without drawing on the imagination, be illustrated together by reference to actual occurrences in the past. Probably no better attempt at the achievement of the impossible can be made than the first eight sections of the bill, for they are the result of the most careful effort of the best minds of the country in both Houses, extending through almost the entire history of the nation.

Let us test the result.

Take the case of Georgia at the election for the fourth Presidential term. There was a paper sent up which could scarcely be called a "certificate" or a "return." The electors wrote the names of two candidates at the

top of a sheet of paper, and then signed their own names thereunder. They folded this into a letter form and wrote on the reverse side: "We certify the within to contain our votes," &c. If the result of an election depended upon these votes, no such a paper would be called a "certificate" or a "return" and counted without objection. Obviously there could be no determination of such a matter by a State tribunal; for the *sufficiency* of the certifying must be within the domain of national authority. This question must be met and settled by the national counting power. The law properly interpreted might treat it as a certificate and might not. No one will contend that the ascertainment and determination of the results which should legally follow such a condition of fact is a proper legislative function; or that it is not purely judicial; or that any prior legislation could have foreseen and provided for it. The first eight sections of the bill do not assume to do so. To provide that when no more than one return, or certificate, or paper, purporting to be a return or certificate, is received from a State, it shall be counted unless both Houses agree to reject, is a lame and impotent conclusion; for there will still remain the question: What is a return? What is a certificate? Is this paper either the one or the other? Moreover, whenever partisan necessity requires the rejection of a vote or votes, and a partisan majority in either House is ready to respond, as it may be too likely to be, and nothing but the production of a "paper purporting to be returns" is required, we may be sure that, out of the intensity of the party zeal and the party passion of a Presidential election, it will be forthcoming. It is impossible to limit the production of "papers purporting to be certificates" or "papers purporting to be returns." In the very nature of things a "certificate" or a return, between the officer or tribunal making and issuing, and the officer or tribunal to inspect and receive, can never be anything else than "a paper *purporting to be* a certificate" or "a return," until it is inspected, approved and received as such; and then the scope of the subject-matter certified may be open to dispute. The philosophical reason is, that to language as a vehicle of thought cannot be given mathematical precision. So that when a command is given to an officer that he shall take certain action upon the receipt of a certain certificate, he cannot be prevented, when deliberation is free, from saying, "This is no certificate;" "this is no return;" "it is a forgery;" "it does not certify the proper subject-matter," &c.

It is not pretended that a case precisely like that of Georgia is likely to occur again. Something equally unexpected *will* arise. It serves, however, to illustrate every one of the three propositions.

In the fifth election various towns in Massachusetts petitioned Congress, protesting that the electors of that State had not been appointed in accordance with State law.

This makes a "controversy," and under the first eight sections of the bill a majority of either House may disfranchise a State.

To provide that in case of only one return, or paper purporting to be a return, it shall be counted unless both Houses concur in rejecting, is only a bid for the manufacture of another "paper purporting to be a return." If it be said that rival tribunals are impossible, or difficult, or infrequent, it must not be forgotten that, in 1876–'77, Florida, without much apparent strain, produced three or more: 1st. The State returning board, authorized by law "to determine and declare who shall have been elected"; 2d. The judgment of the State circuit court; 3d. A canvass by the State legislature; 4th. A judgment of the supreme court of the State, declaring the action of the State canvassing

board *coram non judice* and void; 5th. A return from a minority of the State canvassing board. Time and space forbid the recital in detail of the achievements of Oregon, South Carolina, and Louisiana in the way of manufacturing "papers purporting to be returns."

To provide that a settlement of this "controversy," by a properly designated State tribunal shall be conclusive, unless both houses agree to reject, will still leave open the question, What is the proper State tribunal?

If it be said a provision that in case of a controversy in any State as to the eligibility or appointment of electors, a decision thereof by its highest judicial tribunal having jurisdiction shall be conclusive and followed, unless both houses concur in overruling, will foreclose all controversy, there are many replies.

1st. In the Florida case, which was the highest judicial tribunal having jurisdiction? It was, or it might have been, claimed that the State canvassing board, being invested with power "to determine and declare," was the highest judicial tribunal for that purpose. The same thing was, or might have been, claimed for both the other adjudications. The terms "highest judicial tribunal" or "highest judicial tribunal having jurisdiction" are not absolute terms that all will understand alike; their import depends upon the interpretation and construction of State law.

2d. The eligibility of electors being fixed by the national Constitution, the mandate of a judicial tribunal of a State directing that sacred instrument be violated by counting the vote of an elector who held a Federal office might not be felt binding by both houses of Congress.

3d. But conceding that partisan ingenuity can suggest no dispute as to what is "the highest judicial tribunal," or "the highest judicial tribunal having jurisdiction," or as to what is "a determination made pursuant to State law," and that the production of "certificates," or "papers purporting to be certificates or returns," may be limited in this respect, there is still left open a field of controversy as wide as exists in any ordinary election, save only as to the place of the birth of the voter. Dispute is foreclosed only as to the "manner" of his birth or creation. The time of his birth, the *sufficiency* of its registry and certification, the regularity of his action, his manner of voting, recording, certifying, and transmitting his vote, are all open for criticism and discussion; and disputes in relation thereto can never be foreclosed by any form of words.

In the eighth, ninth, and thirteenth elections the votes of Indiana, Missouri, and Michigan, respectively, were objected to on the ground that, under existing statutes and facts, the admission into the Union of neither of these States was complete.

What should be done in such a case might be difficult to say, because the precise condition cannot be foreseen. To provide, however, that if no more than one return or "paper purporting to be a return or certificate" be presented, it shall be counted, might make it necessary to produce a "paper purporting to be a return or certificate," in order to prevent the votes of a mere Territory from being counted. If it be asserted that the admission of new States is peculiarly within the province of the Congress, this will not be disputed; but if the Congress, with the approval of the Executive, may admit a State, and if in case of two papers purporting to be returns, a single house may decide that a particular State has not been admitted, it may be material to inquire whence the one house derives the power to exclude a State from the

rom such conditions of fact and law better ascertained and declared by he interpretation of existing law than by the enactment of new law ıfter the fact, when perhaps the two Houses and the Executive cannot ɔe brought to an agreement?

It is unnecessary to illustrate further by reference to past occurrences. They have not, however, been exhausted. What exigencies, what complications, what questions shall arise in the future, can only be measıred by the infinite uncertainties of language and the infinite variety of ıuman mind and human method. Certainly enough has been said to lemonstrate—

1st. That beyond the mere enumeration of unchallenged votes, every ıuestion arising in a disputed Presidential election requires the interɔretation and application of existing law to fact conditions. This power, he Constitution, when it vested the "judicial power of the United States" in the courts, devolved on the judiciary exclusively.

2d. That after the choice and designation of electors by the States—ıfter all possible conclusiveness is conceded to State authority—after the ınquestioned domain of national cognizance is entered, there still exists ı field as wide or wider for angry controversy and for the intensely stimulated ingenuity of partisan passion, than in any ordinary popular election; that human wit cannot compass the future and foresee and provide by express enactment for every conceivable transaction or complex condition that may present itself; that no skill in the use of language can choose and frame it into such an expression of thought as all will understand alike; that until this can be done, and until all the complications of the future can be foreseen and measured, it will be found impracticable, whenever abstract commands are to be linked to and govern actual transactions and their results, to dispense with the functions of the government known as the command construing, command interpreting, command applying power, wherein individual responsibility is not merged in numbers, and which is authorized, while yielding obedience to written law, to draw for the solution of unforeseen and imperfectly defined contingencies upon the inexhaustible fountain of right reason.

3d. That to make a deliberative body out of the two Houses, each House having one vote, it were just as well, first as last, to provide either that no vote should be *counted* without concurrence, or that no vote should be *rejected* without concurrence; neither of which propositions would be admissible. There is no middle ground. If it be attempted to divide all cases into two classes, in one of which concurrence shall be necessary to *rejection*, and, in another, concurrence shall be necessary to *counting*, no project has ever been suggested under which the favored class cannot, beforehand, by partisan ingenuity, be transformed into the less favored—the preferred stock changed into common, and all reduced to a level.

It does not follow that every presidential election shall become the subject of a suit at law, any more than that men can transact no business except through the courts. A most insignificant proportion of the vast body of human transactions pass under judicial review, yet all are governed by law. Judicial tribunals prevent disputes, except those believed to be reasonable. Settle disputes by violence, and the strong will be encouraged to quarrel. Settle disputes by large partisan bodies, and partisans will encourage them. Disputes will be raised before irresponsible partisan bodies that would not venture into a court of justice. It is not unlikely that a hundred years may pass without the necessity of a resort to the courts in a presidential election.

Nor is it necessary that the litigation be prolonged. The field of fact inquiry is not broad. The qualifications of the elector and the sufficiency of his designation may present broad questions of law, but not of fact. No election is ever likely to present a greater variety of controversy than that of 1876–'77; yet the electoral commission, though beginning late, concluded in time for the inauguration. If the courts be invested with power to insist on prompt action, it is believed a judicial contest cannot be extended beyond the 4th of March. The bill confers this power. It limits time wherever it was found practicable to do so. It also gives to a case brought under its provisions precedence over all other business. It is believed that it provides a peaceful, constitutional mode of settling *all* disputes in the way most satisfactory to the largest number of people, and will remove from the public mind the anxiety which now possesses it on the subject. That there are objections to it, as there may be to the conferring of any power, is not disputed, but they are outweighed by the reasons in its favor.

The committee recommends its passage, with the following amendments:

1st. Add at the end of the fourth section the following words: "or as soon as a final judicial determination shall be made."

2d. Strike out the word "justice" in the fourth line of sixteenth section and insert the word "judge" in lieu thereof.

O

TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1208.

GEORGE G. COBB.

AY 3, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

r. ERRETT, from the Committee on Ways and Means, submitted the following

REPORT:

[To accompany bill H. R. 5536.]

he Committee on Ways and Means, to whom was referred the bill (H. R. 5536) to reissue a Treasury draft originally issued to George G. Cobb, an assistant assessor in Alabama, deceased, to J. E. Cobb, custodian of the minor children of said decedent, submitted the following report:

George G. Cobb was an assistant assessor of internal revenue in the tate of Alabama, and on the 18th of May, 1871, nearly eleven years go, a Treasury draft on the Assistant United States Treasurer in New ork, in his favor, was issued by the Treasury Department. At the me said draft was issued Cobb was alive, but before it reached his ome in Alabama by mail he died intestate, and with no other property side this draft. The children, of whom there were nine, were almost mediately thereafter divided among his relatives, three being left in labama, and the other six in two other States. The Treasury Dertment refused, and very properly, to pay the draft to any but a regarly appointed administrator on the estate of the deceased. This ould have required an administering and appointment of a custodian each of the three States into which the children were sent, and the st of this proceeding would have eaten up the proceeds of the draft. e cost of such proceedings deterred a resort to that remedy; and as e only other alternative, your committee herewith report a substitute r the original bill, authorizing the Secretary of the Treasury to pay e amount of said draft to the brother of deceased, J. E. Cobb, of uskegee, Ala., to be by him distributed to the children and heirs of ceased, according to the laws now in force in Alabama.

The original bill created J. E. Cobb a trustee of this money, to be ed in educating the minor children; but as it is plain that Congress s no power to create such a trust, we report a substitute which avoids at obstacle.

The money represented by this draft is justly due to the heirs of this an, and this bill takes no money out of the Treasury that has not retofore been appropriated. We recommend the passage of the acmpanying substitute.

SUBSTITUTE FOR H. R. BILL No. 5536.

BILL to authorize the Secretary of the Treasury to pay to J. E. Cobb, of Alabama, the amount due in a Treasury draft originally issued to George G. Cobb, an assistant assessor in Alabama.

Whereas on the 18th of May, eighteen hundred and seventy-one, United States reasury draft numbered fifty-four hundred and sixty-eight, on the assistant treasurer

of the United States at New York, was issued to George G. Cobb, late an assistant assessor, for the payment of four hundred and thirty-two dollars and ninety-five cents; and,

Whereas the said Cobb died intestate after the said draft was issued, but before it could be received by him, and left no other assets; and

Whereas the children and heirs of said Cobb, deceased, are now scattered over three States, rendering administration on his effects so expensive as to eat up the proceeds of said draft: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Treasurer of the United States be, and is, required to pay out of any money in the Treasury not otherwise appropriated to J. E. Cobb, of Tuskegee, Ala., brother of the said George G. Cobb, the sum of four hundred and thirty-two dollars and ninety-five cents, to be distributed by him to the children and heirs of said George G. Cobb, deceased, according to the laws now in force in the State of Alabama, and such payment shall be held to be in full satisfaction and discharge of the Treasury draft aforesaid.

C

TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1209.

AY OF SERGEANT-MAJORS AND QUARTERMASTER-SERGEANTS.

AY 8, 1882.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

r. UPSON, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 6152.]

he Committee on Military Affairs, to whom was referred the petition of divers sergeant-majors and quartermaster-sergeants of the United States Army praying for an increase of pay, having had the same under consideration, respectfully report:

That, concurring in the views expressed in the indorsements on said etition, hereto attached, and commended to favorable consideration in e letter of the Secretary of War, also hereto attached, your commit- e report back and recommend the passage of the accompanying bill.

WAR DEPARTMENT,
Washington City, January 7, 1882.

The Secretary of War has the honor to transmit to the House of Representatives pies of petitions of Theodore Ewert and others, sergeant-majors and quartermaster-rgeants of the First, Sixteenth, Twentieth, and Twenty-second Infantry, and the ghth and Tenth Cavalry, respectively, praying for an increase of pay, together with pies of indorsements of the commanding general Department of Texas, and other ficers of that department, and the Lieutenant-General of the Army, commending e petitions to favorable consideration.

ROBERT T. LINCOLN,
Secretary of War.

The SPEAKER,
of the House of Representatives.

FORT CLARK, TEX, *August* 20, 1881.

Military Committee, House of Representatives, United States:

We, the undersigned petitioners, beg leave to submit to your honorable committee e following memorial, indorsed by our respective regimental commanders and other ficers cognizant with facts herein stated, viz:

As our status as non-commissioned staff officers, sergeant-majors, and quartermas- r-sergeants, we receive less pay in proportion to our rank, duties, and responsibilities an other non-commissioned staff officers, which herein we will show.

1st. A regimental saddler-sergeant, who receives but $1 less per month than our pay 23), is in most regiments on extra duty in Quartermaster's Department as saddler, re- iving 35 cents per diem, performing duty not connected with his regiment, or is on me other duty where his responsibilities are under no circumstance as great as ours, d at his present rated pay is remunerated on the hypothesis of other non-commis- oned officers of the service in proportion to his rank, &c., with ours as 5 is to 1.

2d. The showing of pay, &c., of chief trumpeters and principal musicians (excepting the extra duty) is the same as in the foregoing.

3d. Ordnance and commissary sergeants and hospital stewards, whose duties, responsibilities, and rank are no greater, and in the latter as great, as ours, receive from $7 to $14 per month more than we do.

Not that we think that these non-commissioned officers receive more pay than they earn or are entitled to, but we do beg leave to submit that, in proportion to our rank, &c., our compensation is unequal.

4th. In addition to our regimental duties we have to perform the duties connected with a post adjutant and quartermaster's office, which in fact is more arduous than regimental work, and for which we receive no additional compensation.

We do not wish to be underetood that our labor or responsibilities are too great, but we do most respectfully desire to impress your honorable committee that, in proportion to our rank, &c., with other non-commissioned officers of the service, we are unequally rated in pay.

For the purpose of remedying a long-standing injustice, we hope this may meet with an early and favorable consideration and action from your honorable committee.

E. F. WINTERS,
Sergeant-Major, Eighth Cavalry.
CHARLES GILL,
Quartermaster-Sergeant, Eighth Cavalry.
GEO. B. McNAMARA,
Quartermaster-Sergeant, Sixteenth Infantry.
D. W. CARROLL,
Sergeant-Major, Sixteenth Infantry.
JOSEPH PARKER,
Sergeant-Major, Tenth Cavalry.
SHELVIN SHROPHIRE,
Quartermaster-Sergeant, Tenth Cavalry.
WILLIAM R. TILGHMAN,
Sergeant-Major, First Infantry.
WILLIAM BOWERS,
Quartermaster-Sergeant, First Infantry.
PAUL HAENEL,
Sergeant-Major, Twentieth Infantry.
THOMAS ROSS,
Quartermaster-Sergeant, Twentieth Infantry.
JAMES B. EMERY,
Sergeant-Major, Twenty-second Infantry.
GEO. A. COURTRIGHT,
Quartermaster-Sergeant, Twenty-second Infantry.

[First indorsement.]

HEADQUARTERS EIGHTH CAVALRY,
Fort Clark, Tex., August 20, 1881.

Respectfully forwarded. The pay of sergeant-major is entirely inadequate to the duties performed and the character of men required. The pay should exceed, or at least equal, any enlisted or warranted soldier serving with the line. The chief musician gets $60.

N. B. SWEITZER,
Lieutenant-Colonel Eighth Cavalry, Commanding Regiment.

[Second indorsement.]

HEADQUARTERS SIXTEENTH INFANTRY,
Fort McKavett, Tex., August 28, 1881.

The preceding indorsement of General Sweitzer is fully concurred in.

G. PENNYPACKER,
Colonel Sixteenth Infantry, Commanding.

[Third indorsement.]

HEADQUARTERS TENTH CAVALRY,
September 3, 1881.

Respectfully forwarded. The preceding indorsements of Generals Sweitzer and Pennypacker are fully concurred in.

B. H. GRIERSON,
Colonel Tenth Cavalry, Commanding.

[Fourth indorsement.]

HEADQUARTERS FIRST CAVALRY,
Fort Davis, Tex., September 7, 1881.

pinion the pay of a sergeant-major should be $45 per month, with the
vances as at present.

WM. R. SHAFTER,
Colonel First Infantry, Commanding Regiment.

[Fifth indorsement.]

HEADQUARTERS TWENTIETH INFANTRY,
Fort Brown, Tex., September 22, 1881.

fully forwarded. Our sergeant-majors and quartermaster-sergeants, espe-
n stationed at large posts, have difficult and arduous duties to perform. Men-
ysical strength is frequently put to a severe test, and I consider their pres-
f pay entirely inadequate for the services rendered.

E. S. OTIS,
Colonel Twentieth Infantry, Commanding.

[Sixth indorsement.]

HEADQUARTERS TWENTY-SECOND UNITED STATES INFANTRY,
Fort Clark, Tex., November 1, 1881.

tition of the sergeant-majors and quartermaster-sergeants is founded in
d reason. Each at these positions is honorable, and requires men of edu-
d business habits. In the increase of pay in the rest of the non-commis-
ff these two non-commissioned positions seem to have been overlooked. I
d the same pay as now received by commissary-sergeants.

D. S. STANLEY,
Colonel Twenty-second Infantry, Commanding.

[Seventh indorsement.]

HEADQUARTERS DEPARTMENT OF TEXAS,
San Antonio, November 25, 1881.

fully submitted to the commanding general, as requested by the communi-
ted the 11th instant, from the sergeant-majors and quartermaster-sergeants.
, sergeant-majors and quartermaster-sergeants are above the other members
-commissioned staff. That fact, in itself, should secure to them a higher
mpensation than that attaching to their juniors.
geant-major and quartermaster-sergeant of engineers receive, each, $30 per
n ordnance-sergeant, $34; commissary-sergeant, $34; hospital steward (first
); and sergeants of engineers, ordnance, and Signal Corps, $34 each.
of the classes named receives too much.
itions of sergeant-major and quartermaster-sergeant of regiments require
ce, clerical ability, and military experience, and their pay should be increased
nut commensurate with their superior rank and duties. They form a most
ass, selected from entire regiments on account of their fitness for the posi-
ecommend that legislation be asked giving them $45 per month pay, with
llowances.

THOMAS M. VINCENT,
Assistant Adjutant-General.

[Eighth indorsement]

r fully in the above views of General Vincent, and respectfully recommend
action upon the within petition.

C. C. AUGUR,
Brigadier-General, U. S. A., Commanding Department of Texas.

[Ninth indorsement.]

HEADQUARTERS MILITARY DIVISION OF THE MISSOURI,
Chicago, December 2, 1881.

Respectfully forwarded to the Adjutant-General of the Army, concurring in the remarks of General Augur.

P. H. SHERIDAN,
Lieutenant-General, Commanding.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
December 21, 1881.

A true copy of original and indorsements thereon.

H. C. CORBIN,
Assistant Adjutant-General.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1210.

OFFICERS AND CREW OF THE UNITED STATES STEAMER ALLIANCE.

MAY 8, 1882.—Referred to the Committee on Appropriations and ordered to be printed.

Mr. DEZENDORF, from the Committee on Naval Affairs, submitted the following

REPORT:

The Committee on Naval Affairs, to whom was referred the memorial of the officers and crew of the United States steamer Alliance, praying for remuneration for extra clothing, mess stores, &c., purchased during the cruise of that vessel in the Arctic Ocean in search of the exploring steamer Jeannette, respectfully report back the same to the House with a recommendation that it be referred to the Committee on Appropriations, asking that they insert an item in the naval appropriation or other bill covering the amount asked for, viz, $8,000.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1211.

MARINE HOSPITAL AT PORT TOWNSEND, WASHINGTON TERRITORY.

MAY 10, 1882.—Referred to the Committee on Appropriations and ordered to be printed.

Mr. MCLANE, from the Committee on Commerce, submitted the following

REPORT:

[To accompany bill H. R. 5875.]

The Committee on Commerce, to whom was referred the bill (H. R. 5875) authorizing the purchase of a marine hospital at Port Townsend, Washington Territory, beg leave to report the same to the House with the recommendation that it do pass.

This recommendation is based upon the examination and report to the Treasury Department of a board of officers; the favorable views of the Surgeon-General of the Marine Hospital Service; the indorsement of the Secretary of the Treasury; and especially upon the representation that to build a marine hospital will cost the government much more than to purchase this one, which is substantially new.

TREASURY DEPARTMENT,
February 24, 1882.

SIR: Referring to the communication of your committee of the 21st instant, inclosing bill H. R. 3164, of the present session, "authorizing the purchase of a marine hospital at Port Townsend, Washington Territory," and requesting a report thereon, I have to invite your attention to the inclosed copy of letter from this department to the chairman of the Committee on Appropriations of the 5th of April, 1880, when the subject of the purchase of the hospital was first presented to Congress, containing the approval of the department in regard to the purchase. It will be seen from the letter referred to that copies of all papers in the case were transmitted for the consideration of the committee, together with the report of Dr. John B. Hamilton, Surgeon-General of the Marine Hospital Service, as to the advisability of the purchase.

A copy of Dr. Hamilton's report is inclosed herewith, and papers and memorandum returned.

Very respectfully,

CHAS. J. FOLGER,
Secretary of the Treasury.

Hon. FRANK HISCOCK,
Chairman Committee on Appropriations, House of Representatives.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., April 5, 1880.

SIR: I have the honor to transmit herewith, for the consideration of your committee, copies of papers presented by the Surgeon-General of the Marine Hospital Service in regard to the purchase of the hospital at Port Townsend, Washington Territory, for the accommodation of marine hospital patients, as follows:

A. Original proposal of Dr. Minor, of Port Townsend, the proprietor of the hospital, to sell or lease the same to the United States.

B. Order of the Treasury Department of September 18, 1879, convening board to investigate Dr. Minor's proposition.

C. Report of board of officers convened to examine the purchase of the hospital.

D. Second proposal of Dr. Minor to lease or sell the property to the United States.

Attention is invited to the indorsement of Dr. Hamilton, Supervising Surgeon-General Marine Hospital Service, of the 2d instant, upon the accompanying papers, from which it will be seen that the purchase of this hospital is recommended in view of the present necessities of the service at Port Townsend and the rapid increase in its commerce, and for the additional reason that there is no marine hospital on the Pacific coast except that at San Francisco, more than 1,000 miles distant.

The views of Dr. Hamilton are approved, and an appropriation of $18,000, to purchase the hospital, is recommended.

I am, very respectfully,

JOHN SHERMAN,
Secretary.

Hon. J. D. C. ATKINS,
Chairman Committee on Appropriations, House of Representatives.

TREASURY DEPARTMENT,
OFFICE SURGEON-GENERAL MARINE HOSPITAL SERVICE,
April 2, 1880.

Respectfully referred to Hon. H. F. French, Acting Secretary * * * . The purchase of this hospital is recommended in view of the present necessities of the service at the port and the rapid increase in its commerce that has developed within the last year. There is no marine hospital on the Pacific coast except that at San Francisco, more than 1,000 miles distant. Should this building be sold by its present owner for other than hospital purposes, the government would be obliged to erect a hospital at a much greater expense.

It is therefore respectfully recommended that the papers in the case be transmitted to Congress, with your recommendation that the sum of $18,000 be appropriated to enable the Secretary of the Treasury to purchase the hospital.

JOHN B. HAMILTON,
United States Marine Hospital Service.

TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1212.

GHTS AT THE MOUTH OF THE PATUXENT RIVER, MARYLAND.

Y 10, 1882.—Referred to the Committee on Appropriations and ordered to be printed.

·. McLANE, from the Committee on Commerce, submitted the following

REPORT:

[To accompany bill H. R. 6154.]

The Committee on Commerce, to whom was referred a memorial, &c., citizens of Maryland for the establishment of a light-house at Drum ›int Harbor, Calvert County, Maryland, beg leave to report the same ck to the House with accompanying bill "for the establishment of hts at the mouth of the Patuxent River, Maryland," and the recom- ›ndation that said bill do pass.

This recommendation is based upon the views of the Light-House ›ard, as expressed in the following letter:

TREASURY DEPARTMENT,
OFFICE OF THE LIGHT-HOUSE BOARD,
Washington, April 28, 1882.

SIR: Respectfully referring to department letter of April 15, transmitting for the ›ews of the Light-House Board thereon a memorial of citizens of Maryland for the tablishment of lights at the mouth of the Patuxent River, Maryland, together with 'o other inclosures relating to the same subject, these papers having been referred the department by the Committee on Commerce of the House of Representatives, I ›ve the honor to state that this matter was considered by the Board at its meeting ı April 27th, when the conclusion was reached that the interests of commerce and ›vigation require that two range-lights be established to guide into the Patuxent iver, which affords a valuable harbor of refuge for vessels passing up and down the hesapeake Bay.

The estimated cost of establishing these range-lights is $25,000.

The papers in the case referred to the Board are herewith returned.

Very respectfully,

GEORGE DEWEY,
Commander, U. S. N.

The Hon. SECRETARY OF THE TREASURY.

C

ITH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1213.

IGHT-HOUSE ON THE GREAT SHOALS, IN DORCHESTER COUNTY, MARYLAND.

.Y 10, 1882.—Referred to the Committee on Appropriations and ordered to be printed.

r. McLANE, from the Committee on Commerce, submitted the following

REPORT:

[To accompany bill H. R. 6155.]

The Committee on Commerce, to whom were referred certain joint resotions of the general assembly of Maryland, "urging the erection of ight-house on the Great Shoals, in Dorchester County, Maryland," g leave to report the same to the House with the accompanying bill or the establishment of a light-house on the Great Shoals, Dorchesr County, Maryland," and the recommendation that said bill do pass. This recommendation is based upon the request of said general asmbly and upon the views of the Light-House Board as set forth in the llowing letter:

TREASURY DEPARTMENT,
OFFICE OF THE LIGHT-HOUSE BOARD,
Washington, April 28, 1882.

SIR: Referring to department letter of March 23, inclosing a joint resolution the general assembly of Maryland, asking the establishment of a light-house on eat Shoals, Tangier Sound, Chesapeake Bay, in Dorchester County, Maryland, for e views of the Board, I have the honor to return the resolution in question, and to te that the Board, at its session held yesterday, examined all the facts bearing on e subject that it had been able to obtain, and reached the conclusion that a sixthler light, which it is estimated can be erected for $15,000, would be of advantage to e commerce of this neighborhood.

Very respectfully,

GEO. DEWEY,
Commander, U. S. N.

The Hon. SECRETARY OF THE TREASURY.

O

ONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 1214.

SUPPORT OF COMMON SCHOOLS.

1882.—Recommitted to the Committee on Education and Labor and ordered to be printed.
JANUARY 5, 1883.—Ordered to be reprinted.

ERWIN, from the Committee on Education and Labor, submitted the following

REPORT:

[To accompany bill H. R. 6158.]

Committee on Education and Labor, to whom have been referred bills in regard to extending aid to education, after full consid- report the accompanying bill as a substitute for them, and rec- l its passage.

ast census shows that there are 6,239,958 people of this country e age of ten years who cannot write—12.44 per cent., or about th of our entire population. The census further shows that 5, or 75.56 per cent. of them, are in the recent slave States, which but 36.8 per cent. of the population of the country. In six of those ne third or more of the population above the age of ten years are , while in the Territory of New Mexico nearly one-half cannot Of the white population of the country, only 6.96 per cent. can- e, while 47.7 per cent. of the colored population are in that con- More than one-fourth of the entire population of those States ate.*

ommittee call attention to the illiteracy of the *voters* in the late lding States. The following table has been furnished the com- y the Superintendent of the Census. It shows the total num- ersons of twenty-one years of age and upwards, and also the of that age and upwards who are illiterate:

States.	Total number of males of twenty-one years of age and upwards.	Number of males of twenty-one years of age and upwards who cannot write.		
		White.	Colored.	Total.
.....	259, 884	24, 450	96, 408	120, 858
.....	182, 977	21, 349	34, 300	55, 649
.....	38, 298	2, 955	3, 787	6, 742
.....	61, 699	4, 706	19, 110	23, 816
.....	321, 438	28, 571	116, 516	145, 087
.....	376, 221	54, 956	43, 177	98, 133
.....	216, 787	16, 377	86, 555	102, 932
.....	232, 106	15, 152	30, 873	46, 025
.....	238, 532	12, 473	99, 068	111, 541
.....	541, 207	40, 655	19, 028	59, 683
ina	294, 740	44, 420	80, 282	124, 702
ina	205, 789	13, 924	93, 010	106, 934
.....	330, 305	46, 948	58, 601	105, 549
.....	380, 476	33, 085	59, 669	92, 754
.....	334, 505	31, 474	100, 210	131, 684
nia	139, 161	19, 055	3, 830	22, 885
.....	4, 154, 125	410, 550	944, 424	1, 354, 974

bility to *write* is considered by statisticians the true test of illiteracy, as many rough shame will not admit they cannot read, but are not so likely to claim can write. Besides a person who can read and not write is essentially an

The following statement, showing the ratio of illiterate males of twenty-one years of age and upwards to the whole number of males of the same ages in the States named, is derived by the committee from the preceding table. There being but few foreigners in those States, nearly all of those persons are citizens of the United States and voters.

Ratio of illiterate males twenty-one years of age and upwards.

Alabama	46.7
Arkansas	30.4
Delaware	17.6
Florida	38.6
Georgia	45.1
Kentucky	26.0
Louisiana	47.4
Maryland	19.4
Mississippi	46.7
North Carolina	42.3
South Carolina	51.9
Tennessee	39.9
Virginia	39.3
West Virginia	16.4
Missouri	11.0
Texas	24.3

The average ratio of illiterate males of the ages named in the above States is 32.3.

Of the above illiterates 69.7 per centum are colored, and 30.3 per centum are whites.

In ten of the above-named States more than 30 per centum of the voters are illiterate.

In six of them the illiterates are about 50 per centum.

In South Carolina 52 per centum are illiterate.

The State of Alabama has 120,858 illiterate voters. Its popular vote in 1880 was 151,507.

The State of Georgia has 145,087 illiterate voters. Its popular vote in 1880 was 155,651.

The State of Mississippi has 111,541 illiterate voters. Its popular vote in 1880 was 117,078.

The State of Louisiana has 102,932 illiterate voters. Its popular vote in 1880 was 97,201.

While it is true that in many of the States not one-half of those entitled to vote actually did so, yet the wonderful nearness of the number of illiterates to the number of those who exercised the right of suffrage is startling.

The truism that no government which rests upon universal suffrage can long continue unless the suffragists are intelligent, in the light of the above facts presses itself upon our attention with renewed force. The words of James Madison, uttered in 1826, are a present warning: "A popular government without popular information or the means of acquiring it, is but a prologue to a farce or tragedy, or both." Nearly half a million of the white and almost a million of the colored voters in the South cannot read the ballots which they cast. But thirteen years have elapsed since the latter class was given the ballot. At that time all of them were grossly ignorant not only of letters, but also absolutely devoid of all knowledge of the rights and obligations of citizenship. During the last ten years the number of illiterates in the country has increased about 400,000, though the percentage of illiteracy to the whole population has decreased nearly 2 per cent. It would, however, take forty years to dispel this illiteracy at this rate of diminution.

Your committee find from data furnished by Henry Randall Waite, special agent of the Census Bureau for collecting statistics of education, &c., that the total amount raised by taxation and expended for the support of schools in all the States and Territories was $75,574,048. (This statement will be found at the end of this report.) Of this amount, only $9,266,126 was raised in the late slaveholding States. The amount of money *per capita* of the entire population raised in the Northern States and the Territories was $2.09. Had the Southern States raised as large an amount *per capita* it would have amounted to $38,692,292, or more than four times the amount which they did actually raise. But if they raise only the same amount this year as they did the census year, and to that there be added the amount they would receive by this bill, they would still have to raise more than two and one-third times as much as both those amounts in order to bring their *per capita* up to that of the Northern States. And yet, owing to the great mass of the illiteracy in the South, they need to expend much more than the North. It further appears that there is a great want of more school-houses, and along with other expenses these will have to be provided for.

Your committee have had before them many of the superintendents of schools of different States, and also several eminent educators who have carefully studied the needs of the people for education and their ability to provide it in those States where slavery lately existed, and where the great mass of illiteracy is found; and from their testimony, and from the information derived from the census returns your committee is convinced that there is a great want of funds to support and maintain schools in those States. In many sections the people are poor and utterly unable to support schools for any proper length of time. They are struggling in that direction and doing the best they can. But in most of those States they have had in the last few years to build up a school system from the beginning. Their schools cost more also, on account of the necessity of having separate ones for white and colored pupils. There is a great want of trained, competent teachers. There is the want of help and stimulus from home associations and assistance, as the large mass of the adults are entirely illiterate.

The committee believe that the state of facts detailed shows an emergency with which the people where illiteracy so greatly exists cannot at this time successfully cope; that it is a matter of the greatest concern to the whole nation; that its effects are by no means confined to the limits within which illiteracy is so vast, but that it is a serious menace to the prosperity and safety of the government itself. Your committee believe that the present state of things invites to social and political disorder, and in times of business depression might lead to infinite mischief and lasting disaster to property. General intelligence will avert such dangers, but general intelligence cannot be expected without sufficient schools, and they cannot be maintained at the present time without assistance from the general government.

Your committee agree that that system of schools is best which leaves the raising and expenditure of funds for school purposes nearest to the districts or towns which are to expend them, subject to general laws and to a superior supervision, and that funds raised from sources outside and independent of those who expend them are not so well or judiciously expended as those arising from local taxation. But the present situation is abnormal. The needs are urgent and beyond the power of local or State authority to adequately deal with. Citizenship has been bestowed by national enactment, and the nation, in order to promote the general welfare of all, should add to citizenship the gift of instruction

Having made 4,000,000 (now increased to 6,750,000) against lately enslaved people, a potent force in our political life, it is not only an imperative duty which the nation owes to itself, but an act of justice to those of whom we require the duties of citizenship, that the means of education shall be placed within their reach. But in doing so local effort should be supplemented and not supplanted. We, therefore, do not recommend a national system of schools or of education. We propose to aid and encourage efforts already being made to assist those who are helping themselves, and we do that solely upon the ground that the local and State authorities are not at present able to properly deal with the subject. The committee thinks that as soon as the States have become able to support sufficient schools that all national aid should be withdrawn. It also believes that in five years such a change may have been wrought that no further need will exist for national aid.

In 1870 Congress passed a resolution to inquire into the state of education in the South. But not until the census of that year was published was the true condition of the Southern States and the country revealed. The House of Representatives, at the second session of the Forty-second Congress, passed a bill to create an educational fund from the proceeds of the sale of the public lands and to expend the interest upon the same for the education of the people. The bill did not pass the Senate. At the last session of the Forty-sixth Congress a similar bill passed the Senate but failed to be reached in the House. Opposition to the first bill was based upon a fear that in appropriating the proceeds of the public lands the interests of future settlers upon them might be injured, and also upon a belief by some that the bill was an interference by the general government with the local concerns of the States.

The bill now reported has the unanimous support of the committee. It does not appropriate money from any special source; it does not make a perpetual fund; it is for temporary support only. It directs that $10,000,000 per annum shall be appropriated directly from the Treasury for five years and shall then cease. It is to be distributed to each State in that proportion which the illiteracy of each State and Territory bears to the total illiteracy of the country, as shown by the last census. (The amount due to each State is shown by a table hereto annexed). It is to be paid to the proper officer of each State and to be expended by State officials under State laws. It is all to be used for support of common schools except 5 per cent. thereof, which may be used for the instruction of teachers in normal schools or otherwise, It must be divided proportionally between white and colored schools and pupils. None of the fund shall be used to build or repair school-houses or to purchase sites or to pay the salary of any officials except teachers.

The conditions preceding the right of a State to receive its proportion are that it shall have provided by law a system of public schools.

That it shall have supported schools for at least three months during each preceding year, and shall have expended at least as great a sum of money as it receives.

That it shall also report yearly to the Commissioner of Education certain statistical information in regard to schools, so that Congress may know every year how the money has been expended, and may be informed as to the general state of education.

The late slave States will receive $7,556,773 out of the whole amount. It is believed that this sum will enable them to support schools for six months every year when added to the amount raised by State or local law, and in some of the States for a longer period. The government

will be at slight additional expense in distributing this sum, as it is to be distributed through the existing Bureau of Education.

Your committee think that the power of Congress to make this appropriation will not be questioned. From 1785 until now Congress has granted section 16 of every township in States containing public land, to those States for school purposes. It has granted land for universities. And in granting land for agricultural colleges by the law of 1862, it attached conditions to the grant as to the kind of instruction to be given, and also required that certain reports should be made to Congress. It has also in several instances granted money, the net proceeds of lands, for school purposes.

The number of acres of land granted for schools, the sixteenth and thirty-sixth sections, and for universities and agricultural colleges, specifically is, as stated by the Commissioner of the General Land Office, 47,431,718. This is exclusive of grants of the proceeds of sales of lands which have in a few instances been given. At a dollar and a quarter per acre this is not a munificent sum. These gifts, however, derive their value more from their recognition of the principle of national aid to public education than from their being commensurate with the needs of the people. These grants have been of great assistance to young and struggling States, and in some of them have been the foundation of successful and flourishing systems when supplemented, as they have been, by adequate local taxation. None of the original thirteen States, or Maine, Vermont, Kentucky, or Tennessee, received any public lands for school purposes, except for agricultural colleges, under the act of 1862. Those States would receive under this bill $5,580,729 every year.

Your committee beg leave to suggest that the circumstances surrounding this subject indicate that if the government is to extend aid at all it should do so at once. Very few children remain in the public schools after they are fourteen years of age. Year by year the great army of ignorant, illiterate citizens is increased from below, from the children of last year and the year before. That illiteracy degrades our citizenship. It retards our material progress. It weakens private and public morality. It threatens the stability of law and order. President Monroe's words are still pertinent: "Let us by all wise and constitutional measures promote intelligence among the people as the best means of preserving our liberties." Without the aid proposed by this bill illiteracy will not be perceptibly diminished for many years. In the mean time the perils arising from an ignorant ballot are ever present and threatening. It is the earnest conviction of your committee that the bill should at once become a law.

A BILL to aid in the support of common schools.

Whereas it appears from the tenth census that one-eighth of the people of the United States are totally illiterate, and it seems that those States in which illiteracy exists to the greatest extent are not at present able to provide by local and State taxation for the adequate support of common schools to meet the emergency; and

Whereas the general welfare and perpetuity of our whole country depend upon the intelligence of all its citizens, and it is deemed to be the duty of the general government to aid temporarily in the support of the common schools: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for five years next after the passage of this act there shall be annually appropriated, out of any money in the Treasury not otherwise appropriated, the sum of ten million dollars to aid in the support of free common schools, which amount shall be known as the common-school fund.

SEC. 2. That the Secretary of the Treasury shall annually apportion to the several

States and Territories the said sum of ten million dollars, according to the number of their respective populations of ten years old and upwards who cannot read and write, as shown by the tenth census of the United States, which report shall be submitted to the Commissioner of Education.

SEC. 3. That before any State or Territory shall be entitled to receive its share of said fund it shall have provided by law for the free common-school education of all its children of school age, without distinction of color, for at least three months in each year, from the funds provided for schools under the laws of said State or Territory; and in no case shall any State or Territory be allowed out of said fund a greater sum than such State or Territory shall have expended during the previous year for the common-school education of the children of such State or Territory, exclusive of the amount received from the United States, and exclusive of the sums paid for grounds, school-buildings, or repairs on the same: *Provided*, That separate schools for white and colored children shall not be considered a distinction of color.

SEC. 4. That an amount not exceeding five per centum of the sum apportioned to each State and Territory may be used by them for the education of teachers in normal schools, teachers' institutes, or otherwise.

SEC. 5. That it is hereby further provided that before any State or Territory shall be entitled to receive its share of said fund it shall have complied with the following conditions:

First. That it shall have applied all moneys by it previously received under the provisions of this act in accordance therewith.

Second. That it shall have caused to be made such reports to the Commissioner of Education concerning the condition of the schools in the same, on or before the first day of August in each year, as said Commissioner of Education, under the direction of the Secretary of the Interior, shall deem desirable; and shall especially report for each county as follows: The number of public schools of every grade; the whole number of days actually taught in each during the year preceding; the total amount received from State taxes and from local taxes and the total amount expended for educational purposes in the preceding year; the total amount expended for white and colored schools separately; the number of public-school buildings owned and hired, and the character, condition, and value of the same; the number of children, white and colored, male and female, in attendance on the public schools, and the length of attendance; the number of male and female teachers, white and colored, employed at the same time and at different times in the same year, with particulars as to qualifications of same; the number of school libraries, and the number of volumes therein: the branches taught and the text-books used; the total amount of wages paid to teachers, male and female, white and colored.

SEC. 6. That the Commissioner of Education shall prepare forms of such blanks as shall facilitate the making of the reports herein provided for, and transmit the same to the State and Territorial authorities.

SEC. 7. That in such States or Territories as shall maintain separate schools for white and colored children the money so apportioned shall be divided according to the respective number of such white and colored children in such State or Territory.

SEC. 8. That no part of the money so received from the United States shall be expended in the purchase of real estate, the construction or repair of school-buildings, or in paying the salary of any public officer not engaged in teaching.

SEC. 9. That in case any State or Territory shall misapply or misappropriate the money, or any part thereof, received under this act, or shall fail to comply with the conditions thereof, or to report as herein prescribed, such State or Territory shall forfeit its right to any subsequent apportionment by virtue hereof until the amount so misapplied or misappropriated shall have been replaced by such State or Territory and applied as herein required; and until such report shall have been made all money so retained and not paid to such State or Territory shall be kept separate in the Treasury until disposed of by Congress.

SEC. 10. That on or before the first day of September of each year, the Commissioner of Education, under the direction of the Secretary of the Interior, shall certify to the governor of each State and Territory whether it is entitled to receive its apportionment under this act, and, if so entitled, the amount of such apportionment, and it thereupon shall be entitled to receive the same; but such certificate shall not be issued until all the requirements of this act referring to the duties of the officers of such State or Territory shall have been complied with.

SEC. 11. That the amount apportioned to any State or Territory, and certified as herein provided, shall be paid on or before October first of each year, upon the warrant of the Commissioner of Education, countersigned by the Secretary of the Interior, out of the Treasury of the United States, to such officer as shall be, by the laws of such State or Territory, entitled to receive the same.

SEC. 12. That the Commissioner of Education shall annually report to Congress the information received by him from the reports of the school officers of the several

States and Territories provided for herein, together with such recommendations as will in the judgment of the Commissioner subserve the purposes of this act.

SEC. 13. That there is hereby appropriated the sum of ten million dollars for the year commencing September first, eighteen hundred and eighty-two, which shall be apportioned as directed herein; and those States and Territories which have provided by law for the free common-school education of their children of school age, without distinction of color, shall be entitled to their apportionment of said sum, all other requirements precedent to the right to receive such apportionment being hereby waived for the year eighteen hundred and eighty-two.

SEC. 14. That any State signifying its desire that the amount allotted to it under the provisions of this act shall be appropriated in any other way for the promotion of common-school education, in its own borders or elsewhere, its allotment shall be paid to such State to be thus appropriated: *Provided*, That its legislature shall have first considered the question of its appropriation to the general fund for use under the provisions of this act in States and Territories where the proportion of illiterate persons is more than five per centum of the whole population.

New York	5,082,871	166,625	3.28	219,600	4.32	5,016,022	208,175	4.15	66,849	11,425	17.09
North Carolina	1,399,750	367,800	26.28	463,975	33.15	867,242	192,032	22.14	532,508	271,943	51.07
Ohio	3,198,062	86,754	2.71	131,847	4.12	3,117,920	115,491	3.70	80,142	16,356	20.41
Oregon	174,768	5,376	3.08	7,423	4.25	163,075	4,343	2.66	11,693	3,080	26.34
Pennsylvania	4,282,891	146,138	3.41	228,014	5.32	4,197,016	209,981	5.00	85,875	18,033	21.00
Rhode Island	276,531	17,456	6.31	24,793	8.97	269,939	23,544	8.72	6,592	1,249	18.95
South Carolina	995,577	321,780	32.32	369,848	37.15	391,105	59,777	15.28	604,472	310,071	51.30
Tennessee	1,542,359	394,385	19.09	410,722	26.63	1,138,831	216,227	18.99	403,528	194,495	48.20
Texas	1,591,749	256,223	16.10	316,432	19.88	1,197,237	123,912	10.35	394,512	192,520	48.80
Utah	143,963	4,851	3.37	8,826	6.13	142,423	8,137	5.71	1,540	689	44.74
Vermont	332,286	12,993	3.91	15,837	4.77	331,218	15,681	4.73	1,068	156	14.61
Virginia	1,512,565	360,495	23.83	430,352	28.45	880,858	114,692	13.02	631,707	315,660	49.97
Washington	75,116	3,191	4.25	3,889	5.18	67,199	1,429	2.13	7,917	2,460	31.07
West Virginia	618,457	52,041	8.41	85,376	13.80	592,537	75,237	12.70	25,920	10,139	39.12
Wisconsin	1,315,497	38,698	2.94	55,558	4.22	1,309,618	54,233	4.14	5,879	1,325	22.54
Wyoming	20,789	427	2.05	556	2.67	19,437	374	1.92	1,352	182	13.46

The above table, prepared at the request of Hon. H. W. Blair, chairman of the Senate Committee on Education, is respectfully submitted to the Superintendent of the Census, with the statement that while its figures are believed to be in most instances correct, they are entirely preliminary, and therefore subject to such changes as may result from the final revision.

HENRY RANDALL WAITE,

Special Agent Statistics of Education, Illiteracy, Libraries, Museums, and Religious Organizations.

OPINIONS OF EDUCATORS WHO APPEARED BEFORE THE COMMITTEES ON EDUCATION AND LABOR OF THE SENATE AND HOUSE OF REPRESENTATIVES.

From a memorial to Congress by the National Educational Association.

We respectfully suggest: 1. The help should be so given that it will stimulate rather than supersede the necessity of State effort.

2. It should be help for the common schools; temporary aid in the training of teachers, perhaps, but chiefly in giving them opportunity to teach.

"The safety of the republic is the supreme law of the land." This is the maxim which not only justifies but demands action on the part of the general government; and it should also suggest the limitations under which the action should be taken.

3. The help should be immediate and not remote. The fortunes of war, and the necessities of legislative action, have made citizens of a large mass of ignorant men, whose votes are to shape, for weal or woe, the character of our laws. Education alone can convert this mass of ignorance and element of danger into one of enlightened strength and safety.

Largely more than one-half of a fund for the education of the illiterate would go to the South for negro illiteracy; less than one-fourth because of white illiteracy.

Representing an educational work in the South chiefly for the negro race, in which have been expended about $10,000,000, and speaking with a wide knowledge of facts, we emphatically assert the impossibility of accomplishing this great work unless the general government shall come to the assistance of those States in which this illiteracy is chiefly found.

Every dollar we have expended expresses the conscientious and earnest desire of the donor that this work shall be done, and is an emphatic vote for the action for which we ask.

In the name of the millions of Christian citizens whom we represent, we earnestly urge Congress to help qualify the ignorant voters who are intrusted largely by Congressional action with the ballot, for the duties with which they are charged, believing the power to do this is co-ordinate with the power that enfranchised them.

REV. M. E. STRIEBY, D. D.,
American Missionary Association; Congregational.
REV. J. C. HARTZEL, D. D.,
Secretary Freedmen's Aid Society; Methodist.
REV. H. L. MOREHOUSE, D. D.,
Home Missionary Society; Baptist.
REV. SHELDON JACKSON, D. D.,
Home Missionary Society; Presbyterian.
REV. J. L. M. CURRY, D. D.,
Agent of the Peabody Fund.
PROF. C. C. PAINTER,
Fisk University, Nashville, Tennessee.
S. C. ARMSTRONG,
Hampton Institute, Virginia.

WASHINGTON, D. C., *March*, 1882.

I have been laboring in this work in my State for the last ten years. I have been the representative of the Department of Education since 1872. I do not propose to detain the committee by any lengthened remarks. I propose to give you, gentlemen, some plain facts showing our condition, showing our necessities, showing the temper and spirit of our people, and I feel that when I do this, when I put before you the condition of the State of Georgia, I shall have given you a type of what prevails throughout the entire South.

* * * * * * *

I want to say to you, gentlemen, that in the State of Georgia, under my administration of ten years, the entire loss of school fund will not foot up more than about $6,000. In an administration covering ten years there has not been a single dollar misapplied with that exception that I know of. We try to make it do the greatest possible amount of good. We try to manage it with the greatest economy. We admit to our schools all who want to enter them. We commenced in 1871 with a school attendance of 48,000. We have gone gradually upward. The second year we had 83,000, the next year 136,000, the next year 156,000. I shall not follow the statistics along. Year before last (my year's work has not been footed up, as the returns are not all in) we went up to a school attendance of 236,000. We have never failed to gain as much as 9,000 in any year. We have gone over that in attendance every year, and the colored people have proceeded *pari passu* with the whites in their attendance. They commenced with 6,000 and went up, according to the last return, to 86,000 colored children in our schools. There is no discrimination made; no man can afford to do it

to support her own system of schools, of which she feels proud. She sympa-
with Georgia and South Carolina and the other States of the South in the great
hat has been imposed upon them in this imposition of so many millions of peo-
citizens who are not educated. I think that whole section will be hearty in its
with the notion of doing at once all that the United States Government feels
can do at once for the assistance of those States in this matter.—(D. F. De
State superintendent of schools, Ohio.)

nk that if the plan of giving $15,000,000 for this object is carried out now it
worth more than $20,000,000 will be twenty years hence. The case is urgent;
ed is immediate.—(Hon. B. G. Northrop, secretary of the board of education of
f Connecticut.)

pretty well acquainted with the condition of education in our country and in
ountries, and I have no hesitation in announcing to you, gentlemen, my con-
that never within ten years in the history of the world has an effort so great,
istent, and so absolutely heroic been made by any people for the education of
ldren as by the leading class of the people in our Southern States. Practically,
ten years every one of these Southern States has put on its statute book a sys-
public schools; practically, within this time every district of country in the
has received something that can be called a school. This school public, as we
ll it, consisting of State officials, of school officers, of superior teachers, of
tful people all over the South, is to my mind the most forcible, the most per-
the most devoted school public now in any part of the world. There is no
f superior teachers doing so much work for so little pay and under such great
ntages as in the South to-day. There is no minority of people working so
overcome this terrible calamity of illiteracy anywhere in the world to-day as
outh. I give this as the deliberate result of two years of observation in twelve

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ust remember, gentlemen, that nine men out of ten in the South never saw
e call a good public elementary school. The thing that is necessary is to put
year, for two years, for three years, in every district through that country a
that will be a fair representative of a public school, that the people can see it;
e having seen it and enjoyed its benefits, they never will give it up again.
is utterly impossible for the average school authority to get the money to put
school on the ground. Give to that man another $500, another $1,000, and at
ithout wearing himself out with importunity, he can put on the ground the
hat the people need; a school that, instead of being a school that satisfies
, is a school that satisfies everybody; and once having seen that school for one
r two years, for five years, for ten years, that people will be stimulated to great
ns, and will never give it up. * * * What is to be done should be done at
meet the great demand of the present. * * * I am acquainted with the
uperintendent of instruction, I believe, in every Southern State. I am ac-
d with the State school board, I think, of every Southern State but two or
I have studied with great care in the records of all those officers their methods
ibution of money. I believe there is no set of men in this country who are
g a moderate amount of money with greater economy, with greater fidelity,
ese gentlemen. I believe if there is any set of men in this country that can
ted to administer a fund of $10,000,000 or $15,000,000 in thirteen or fourteen
with fidelity, it is the school authorities of those States, and, therefore, it seems
that this money should go directly to the children through the accustomed
ls, of course being guarded by all proper safeguards in the central power.—
. D. Mayo, D. D.)

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1215.

TO SHORTEN THE PERIOD REQUIRED IN HOMESTEADING THE PUBLIC LANDS TO TWO YEARS.

MAY 11, 1882.—Laid on the table and ordered to be printed.

Mr. T. M. RICE, from the Committee on the Public Lands, submitted the following

REPORT:

[To accompany bill H. R. 344.]

The Committee on the Public Lands, to whom was referred the bill (H. R. 344) to shorten the period required in homesteading the public lands to two years, have had the same under consideration, and report the bill back to the House, with the recommendation that it do not pass.

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1216.

FRANCIS M. COX.

MAY 11, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DAWES, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 2567.]

The Committee on Invalid Pensions, to which was referred the bill (H. R. 2567) granting a pension to Francis M. Cox, has had the same under consideration, and begs leave to submit the following report:

Francis M. Cox enlisted in Company A, Eighth Regiment West Virginia Volunteers, July 27, 1861. The regiment was subsequently changed to the Seventh West Virginia Cavalry. Cox was promoted to hospital steward November 1, 1862, to veterinary surgeon February 7, 1865, and mustered out August 1, 1865. He applied for a pension December 23, 1874, on account of gunshot wound of right side, at Buchanan, Va., June 13, 1864. His claim has not been rejected, but in the opinion of the Pension Office is inadmissible upon the evidence on file. He alleges that about 4 o'clock p. m., June 13, 1864, at the place above named, the command came up to the bridge across the James River with the intention of crossing over, when it was discovered that the bridge was on fire. While awaiting orders where to ford the river claimant dismounted, and while so dismounting he received a gunshot wound of right side of abdomen from the enemy's line, on the opposite side of the river. He was taken with the regiment in ambulance, and received treatment by the regimental surgeon until about August 1, 1864, when admitted to general hospital at Gallipolis, Ohio.

In support of this allegation the claimant has filed the affidavit of the major and the surgeon of the regiment.

The Adjutant-General reports the soldier accidentally wounded at Buchanan June 18, 1864, while the records of the Gallipolis general hospital show treatment from August 12 to November 15, 1864, for gunshot wound, right side, below ribs, received at Buchanan, Va., June 13, 1864.

The medical examinations made under the orders of the Pension Office show a total disability from the wound.

The only objections to the allowance of the claims by the Pension Office are based upon the record of accidental wound, and the further statement of the Adjutant-General that the command was not in action on that date. But, as it is not claimed that the wound was received in action, the committee is of opinion that the discrepancy between the

record and the parole evidence, as to the circumstances under which the wound was received, should not defeat claimant's title to pension, because he is unable to furnish further testimony in explanation of this discrepancy.

In view of all the facts shown, the committee reports favorably on the bill and asks that it do pass.

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47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1217.

THOMAS MURRY.

MAY 11, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DAWES, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 626.]

The Committee on Invalid Pensions, to which was referred the bill (H. R. 626) granting a pension to Thomas Murry, has had the same under consideration, and begs leave to submit the following report:

Thomas Murry enlisted in Company D, Second Maine Cavalry, November 28, 1863, and was mustered out December 6, 1865. He filed an application for pension April 12, 1876, in which he alleges that on or about June 8, 1864, while on guard-duty at Thibodeaux, La., he was poisoned by being bitten by a moccasin snake in right leg, above the knee, resulting in nervousness, impaired digestion, irregular bowels, and dizzy sensations.

In support of this claim there appear the affidavits of the family physician as to prior soundness, of comrades, the regimental surgeon, and three physicians who have treated him since discharge.

Comrades E. R. Grant and Andrew D. Grant testify that the claimant was bitten by a moccasin snake at the time, place, and under the circumstances alleged. The latter killed the snake and assisted claimant to the hospital of the regiment.

Surgeon George W. Martin states that he examined claimant at time of his enlistment in November, 1863; was sound at that time and free from disease, and continued so until he was bitten by a moccasin snake on the right leg, near the knee, about June 8, 1864. That the bite caused great prostration, and came very near resulting in death, but slowly recovered and was sent north on furlough in September, 1864, from which he returned in March, 1865. Subsequent to the bite, claimant suffered from nervousness, impaired digestion, irregular bowels, and general debility, and was unfit for any but light duty until his muster-out. Affiant treated the soldier for the same troubles in 1871.

Dr. J. F. Brown testifies that he treated claimant for chronic diarrhœa and scurvy while at home on furlough, and at different times since. Was suffering from nervous debility and the results of scurvy at date of discharge.

Drs. Bachelder and Perkins likewise testify to claimant's continuous suffering from the above-described diseases.

Medical examination of the claimant by Pension-Office surgeons shows a feeble and irregular pulse, coated tongue, red and inflamed throat, ten-

I CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
st Session. } { No. 1218.

JAMES KING.

11, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

DAWES, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 2812.]

Committee on Invalid Pensions, to which was referred the bill (H. R. 812) granting a pension to James King, has had the same under consideration, and begs leave to submit the following report:

his committee finds that the petitioner presented his case to the Forty-h Congress, and obtained a favorable report at the hands of the ate Pension Committee, as follows:

e Committee on Pensions, to whom was referred the petition of James King, pri-Company F, First Regiment United States Infantry, having examined the same, the accompanying papers, find that the soldier was continuously in service from rst enlistment as a volunteer, in 1861, to the date of his discharge for disability, 70, from partial paralysis.
s paralysis came on in 1869. His application for pension was rejected because, in pinion of a board of examining surgeons, the disability was not incurred in the ce and in the line of duty.
e medical evidence in the case is conflicting to some extent. The existence of al paralysis is fully established, and a degree of mental alienation coexists. of the surgeons attribute his present condition to a virulent attack of syphilis, e others declare that it had no such origin. The existence of the last-named dis-prior to the occurrence of paralysis is, in the opinion of the committee, established, whether the paralysis thus originated is very questionable. In consideration of loubt, and of the additional fact that the petitioner served throughout the war credit and fidelity, having participated in the battles of Winchester, Cedar ntain, and Antietam, in 1862, Chancellorsville and Gettysburg, in 1863, and in man's march, in 1864, the committee recommend the passage of the accompany-bill.

his report was adopted by the Committee on Invalid Pensions of House, but the bill was not reached in the House.
our committee has carefully examined all the evidence upon which above-quoted report was based, and is of opinion that the conclu-s reached by the two committees were well founded, in view of the ng medical certificate of Surgeon Abadie, medical director, De-tment of the Lakes, under date of January 20, 1871, which is as fol-s:

rtial paralysis of the right side; the right upper extremity is completely para-l, and the right lower extremity partially. This soldier is able to walk, though considerable difficulty. At times he shows unmistakable signs of mental aberra- These consist principally in the manifestations of ungovernable rage, arising comparatively trivial causes. The organs of speech are much impaired, it be-almost impossible to understand what he says; one remarkable fact has been ob-ed from the beginning, the inclination to say no when yes was intended. The

patient often seems conscious of the absurdity of the mistake, and immediately corrects himself. This soldier was wounded during the war, a musket ball striking his breast one inch above, and one inch to the left of, the extremity of the xiphoid appendix. There is no scar showing the point of exit: probably the ball was extracted immediately. The patient's accounts of the matter are conflicting. In my opinion, the disability is the result of hardships and exposure incident to the service. Amount of disability, total.

The medical record of the soldier during his last term of service shows treatment at various times for colic, intermittent fever (tert. and quot.), and neuralgia. The paralysis did not appear until subsequent to the last treatment shown for neuralgia, in October, 1868.

The committee is clearly of opinion that the attack of syphilis immediately after discharge from first service, in May, 1864, resulted in no serious consequences, or else the rigid medical examinations to which recruits into the Regular Army are subjected would have rejected him. Again, the absence of any reference to syphilis or its results in the hospital record, or the certificate of disability above quoted, should go far to remove doubts as to the real cause of the claimant's pitiful condition. The opinion expressed by the medical officer, "that the disability is the result of hardships and exposure incident to the service," is also the opinion of this committee, and the same therefore recommends that favorable action may be taken on the bill, amended by striking out all between the word "laws," in line five, and "the," at the end of line six.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1219.

JOANNA L. SHAW.

MAY 11, 1882.—Laid on the table and ordered to be printed.

Mr. DAWES, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 4296.]

The Committee on Invalid Pensions, to which was referred the bill (H. R. 4296) granting a pension to Joanna L. Shaw, has had the same under consideration, and begs leave to submit the following report:

The claimant was pensioned originally at $8 per month, as the widow of John E. Shaw, who was a private in Company E, Fourteenth Maine Volunteers, and died at New Orleans, La., August 17, 1862, of chronic diarrhea. Afterwards she applied to Congress for a higher rate of pension, on the ground that at the date of the origin of the fatal disease the soldier was acting as assistant surgeon during an emergency, under orders from Major-General Butler. A special act was passed granting her $17 per month, the rate provided by law for the widow of an assistant surgeon, from the date her original pension commenced. Congress, upon evidence furnished by the Pension Office, showing that pensioner's husband had not been an assistant surgeon and that she was a woman of bad character and unworthy of the special bounty of the government, repealed the special act by an act approved January 10, 1873.

The Pension Office subsequently restored her name to the pension-rolls at $8 per month, at which rate she is now paid, and which is the full rate to which she is entitled under general law.

The committee is clearly of opinion that, in the absence of satisfactory evidence in support of the allegation that the soldier's rank was other than that of an enlisted man, the action of a former Congress in this case should not be disturbed, and therefore reports adversely on the bill and asks to be discharged from its further consideration.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1220.

SAMUEL JONES.

MAY 11, 1882.—Laid on the table and ordered to be printed.

Mr. DAWES, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 3746.]

The Committee on Invalid Pensions, to which was referred the bill (H. R. 3746) granting an increase of pension to Samuel Jones, has had the same under consideration, and begs leave to submit the following report:

Samuel Jones was a musician of Company H, Ninety-eighth Ohio Volunteers, and while in said service received a gunshot wound in right leg, for which he was pensioned September 11, 1880, at $1 per month. He immediately applied for increase of pension, but his application was rejected, upon another medical examination, upon the ground that there was no increased disability from the wound.

An examination of the medical evidence in the case convinces the committee of the correctness of the rating, and no additional evidence has been filed since to justify a change. In fact, the rating was made notwithstanding the report of the examining surgeon that there was no pensionable disability whatever from the wound.

The committee therefore reports adversely on the bill.

O

'TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1221.

LOIS L. WEEKS.

MAY 11, 1882.—Laid on the table and ordered to be printed.

.r. DAWES, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 5434.]

'he Committee on Invalid Pensions, to which was referred the bill (H. R. 5434) for the relief of the heirs of Lois L. Weeks, has had the same under consideration, and begs leave to submit the following report:

It appears from the papers before this committee that Lois L. Weeks 'as pensioned as the dependent mother of Charles B. Weeks, who died ı the service of the United States while serving as a private in Comany C, Second New Hampshire Volunteers. She did not apply for ension for more than five years after the soldier's death, hence her ension was made to commence from date of filing of the last essential 'idence, June 6, 1872. Under the act of January 25, 1879, she beıme entitled to arrears for the period intervening between the date of ıe soldier's death and the original commencement of her pension, nounting to $860.27. This allowance was made by the Pension Office ɜptember 15, 1879, and the necessary certificate was mailed to the ɜnsion agent on the 20th of said month. The pensioner died, however, ɜptember 12, 1879, or three days before the allowance of said arrears. ıere being no law under which any person could receive the accrued unpaid pension of a dependent mother, except so much as may be 'cessary to reimburse the person who bore the expenses of the last ɜkness and burial of the decedent, in case where there are not suffiɜnt assets left to meet such expenses, payment of the amount allowed the arrears certificate was refused.

The bill under consideration proposes to give the unpaid arrears to e heirs of the deceased. The papers on file in the Pension Office show at the father of the soldier survives, and that he has a claim for penon now pending. That he will be able to establish the same can rdly be questioned, inasmuch as the dependence of the parents upon e soldier is fully shown in the mother's case, and it is hoped that reɜf be afforded him by an early adjudication of the claim.

But the relief asked from Congress, in the opinion of this committee, ould be denied, as other claims for arrears, equally as meritorious, ıve been, by the action of both Houses; and therefore this committee ports adversely on the bill, and asks to be discharged from its further nsideration.

O

TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1222.

DANIEL W. BLAKE.

MAY 11, 1882.—Laid on the table and ordered to be printed.

r. DAWES, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 633.]

he Committee on Invalid Pensions, to whom was referred the bill (H. R. 633) for the relief of Daniel W. Blake, having considered the same, submit the following report:

Daniel W. Blake was enlisted February 26, 1862, and assigned to ompany D, Seventeenth Regiment of United States Infantry. He is eported present on the muster-roll for March and April, 1862. June 7, 1862, is assigned as the date since which he was reported "absent vithout leave." He was dropped from the rolls as a deserter as of August 9, 1862. There is nothing to show that he was with his regiment ubsequent to June 27, 1862. During the service with the regiment, bout four months, he was sick with dyspepsia and diarrhœa. He is vholly unaccounted for from August 7 to October 2, when he was admitted to Judiciary Square Hospital, Washington, D. C.; complaint, lebility. The hospital record says returned to duty October 28, 1862, but there is no evidence that the soldier did return to his regiment. On he contrary, he continues to be reported a deserter. The following March, 1863, after four months of desertion by the record, the soldier was gain admitted to the Douglas General Hospital, Washington, D. C., for nental and physical prostration, and discharged from the service eleven lays afterwards (March 19, 1863). His name does not appear on the ecords of post hospital convalescent camp (Camp Distribution), near Alexandria, where he was probably ordered to go October 28, 1862, vhen discharged from hospital. The soldier is still living, and in a condition of mental imbecility. As the man was discharged and ordered o duty October 28, 1862, he may be considered as having in part recovered from the sickness contracted in the service. Any aggravation f this sickness afterward resulted from exposure during the time of his oluntary desertion.

Your committee recommend that the bill be reported adversely and e on the table.

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1223.

CAROLINE TWOMBLY.

MAY 11, 1882.—Laid on the table and ordered to be printed.

Mr. DAWES, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 643.]

The Committee on Invalid Pensions, to which was referred the bill (H. R. 643) granting a pension to Caroline Twombly, has had the same under consideration, and begs leave to submit the following report:

Caroline Twombly is the mother of Amos W. Twombly, who served as a musician in Company F, First Maine Heavy Artillery, from August 2, 1862, to June 6, 1865, and died February 4, 1870. Her claim has been rejected by the Pension Office because the soldier left surviving him a widow, and therefore not entitled under the law. The widow survived the soldier but a short time.

There is no evidence that the soldier died of disease contracted in the service, or that the claimant was dependent upon and received support from the soldier, either during service or after discharge.

Your committee, in the absence of such evidence, is unable to pass upon the merits of the case, and therefore reports adversely on the bill and asks to be discharged from its further consideration.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1224.

GEORGE C. TRACY.

MAY 11, 1882.—Laid on the table and ordered to be printed.

Mr. DAWES, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 639.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 639) granting a pension to George C. Tracy, have had the same under consideration, and submit the following report:

The report to the Forty-sixth Congress was as follows:

It appears from the evidence that the said George C. Tracy was a private enrolled in Fifth Maine Battery, light artillery, on 8th September, 1864, and honorably discharged therefrom July 6, 1865. He filed his declaration for pension in the Pension Office July 17, 1879, which was rejected because there was no record of the alleged disability and no evidence of the surgeon of command furnished.

Tracy alleges that while in the service and in line of his duty, at Frederick, Md., in April, 1865, he, by exposure and fatigue, contracted asthma and chronic diarrhœa, which diseases have been continuous and disability resulting therefrom permanent. He asserts that he is unable to furnish the testimony of a commissioned officer of his command because of his ignorance of their whereabouts. He presents the affidavits of David, Thomas, and Walter Tidd, who affirm that he was a sound man physically at the time of his enlistment. Dr. Walker makes the same statement.

John Kingdom and William G. Sharp say they were comrades of Tracy in the service, and in their affidavits state that he contracted said disease at the time, in the manner, and at the place he states.

Tracy filed an affidavit in which he states that he is unable to furnish the testimony of the physician who first treated him after his discharge, on account of the death of said physician.

Dr. Gustavus F. Walker states that he has treated Tracy for asthma and chronic diarrhœa since September, 1873; that he is sorely afflicted with said diseases, and at times is prevented from performing labor for weeks, and that he requires medical attention at all times.

Your committee do not feel justified in this case in overruling the action of the Pension Office, and therefore report adversely and ask to be discharged from further consideration of the case.

7TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1225.

RETIREMENT OF ENLISTED MEN.

MAY 11, 1882.—Referred to the House Calendar and ordered to be printed.

Mr. STEELE, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bills H. R. 705, 1001, 2513, 3030, 4761.]

The Committee on Military Affairs, to whom was referred the bill H. R. 4761, having considered the same, respectfully report:

That in the opinion of your committee the bill should be amended by striking out of line 3, in the first section, the word "thirty," and inserting therein instead the words "thirty-five," and by striking out of line , in the second section, the words "thirty-five" and inserting instead ie word "forty." It is believed this would give a proper relief to a deserving class of veteran soldiers, who gave the whole of their active life o the service.

Your committee also report back the bills H. R. 705, 1001, 2513, 3030, nd petition of Patrick McDonald, all for similar relief, and ask to be ischarged from the further consideration thereof.

O

TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1226

JAMES B. WHITE.

ıY 11, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

·. PEELLE, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 289.]

e Committee on Claims, to whom was referred the bill (H. R. 289) for 'he relief of James B. White, having had the same under consideration, ·eport as follows:

[t appears from the affidavit of the claimant before your committee, d other evidence not in conflict therewith, that on the 1st day of ırch, 1870, he was engaged in the business of a wholesale and retail ıler in groceries, fruits, tobacco, liquors, &c., in the city of Fort ayne, Ind., employing a large number of men, among whom was one eodore K. Dorr, whom he employed at the instance of Dorr's father. at said Theodore K. was assigned to work with one George Heger, the waste, repacking and washing room of the establishment, of which d Heger had the supervision; that soon after the employment of said ›rr he was discharged for drunkenness and inattention to business; ıt soon after his discharge he entered into a correspondence with the ·venue Department, asserting that he could give information of vio- ıions of the revenue laws by White and Heger in failing to destroy, d reusing stamps upon caddies of tobacco; that subsequently a de- :tive was sent by the Revenue Department to investigate the matter, d upon inquiry of said Theodore K. Dorr, he was informed that cer- n revenue stamps which had been removed from packages of tobacco d not destroyed could be found in a certain box in the room where 'ger and Dorr had worked.

The detective found the stamps in the place indicated, together with ne tools. There were some thirty or forty stamps in the box, some which were whole, and some in pieces. Dorr claimed that White d knowledge of the removal of the stamps, while White asserted that knew nothing of it. White was subsequently arrested and taken fore a United States commissioner, by whom he was held to bail, ;er an investigation of the facts, and subsequently indicted by the and jury of the United States circuit court, as was also said Heger. nder the rule both White and Heger would have been put upon trial ıntly, and neither permitted to testify in his own behalf, as the court ›ld that the defendants, thus jointly indicted, could not sever for the ırpose of trial, and being thereby deprived of the only witness (Heger) ho knew the facts, he was compelled to go to trial without sufficient ·idence, and hazard the probability of conviction and imprisonment ıd the forfeiture and confiscation of his establishment. White con uded, in view of the facts, to seek an adjustment of the matter with ıe Revenue Department, and avoid a trial, which he did, and, on the :h of January, 1871, paid the sum of $2,000 in full settlement, and the

7TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1227.

FANNY S. CONWAY.

AY 11, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

r. HENRY S. HARRIS, from the Committee on Naval Affairs, submitted the following

REPORT:

[To accompany bill H. R. 4509.]

he Committee on Naval Affairs, to whom was referred the bill (H. R. 4509) for the relief of Mrs. Fanny S. Conway, respectfully report:

That a similar bill was favorably reported from the Committee on aval Affairs of the Forty-sixth Congress. A copy of their report is ereto appended. Concurring in the reasons set forth therein, we re- ommend the passage of the bill.

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he Committee on Naval Affairs, to whom was referred the bill (H. R. 1583) for the relief of Mrs. Fanny S. Conway, beg leave to report:

That, having considered the same, they do recommend its passage.

In presenting this report they submit to the House the letter of the Fourth Auditor f the Treasury, that the House may know why the sum of money now sought by Mrs. onway was withheld from her. It appears that the husband of Mrs. Conway, Dr. d. Conway, was an assistant surgeon in the United States Navy; that while on duty s such officer on board the United States vessel Grampus, said vessel with all on oard was lost. It further appears that Congress in 1854 passed an act giving to the idows or heirs-at-law of such persons lost on board said vessel "twelve months' ay, in addition to the pay due to the said deceased at the date of the loss of the essel."

Now, the accounting officers of the Treasury claim that inasmuch as the officer in uestion had given an order on his pay, known as an allotment order, for the benefit f his family and for their support during his absence at sea, and under which order 270 had been paid by the Treasury, they had a right to deduct this amount from the welve months' pay granted by Congress, and did so.

Your committee do not agree to this construction of the act of 1854. To them it is pparent that Congress did not contemplate a settlement of accounts with the lost, ut meant a gratuity or compensation to the living, in consideration of their loss or eprivation. In the service of the government their stay and support had been taken way from them; and, recognizing this, a just, liberal, and beneficent government ntended to make them some compensation, and that compensation was twelve months' ay in addition to what was due the deceased, be that little or much; and so believ- ng, your committee recommend the passage of the bill, which gives the widow the mount so deducted by the accounting officers of the Treasury.

TREASURY DEPARTMENT.
FOURTH AUDITOR'S OFFICE.
January 29, 18

SIR: The papers in the case of Mrs. Fanny S. Conway, widow of Edwin H. Con deceased, late assistant surgeon of the United States ship Grampus, transmitted y letter of the 16th instant, are herewith respectfully returned.

In reply to your inquiry, I have the honor to state that Assistant Surgeon Co before sailing in the Grampus granted an allotment in favor of a James T. I son, and it was that allotment the sum of $[illegible] dollars was paid in excess of the a charged against his pay. It appears that in the settlement of Mrs. Conway's for the gratuity of twelve months' pay authorized by the act of July 27, 18 overpayment on the allotment was deducted from the gratuity, in conformity the uniform practice of the accounting officers in such cases.

An allotment of any portion of an officer's pay at that time was, by the regulations of the Navy Department, restricted to his family, and it was accor assumed that in this instance the allotment, although registered in favor of Mr mson, was intended for the benefit of Mrs. Conway, and from the fact that she in her letter to the Hon. Mr. Wilkes of the allotment as left to her, it is highly ble that the accounting officers were correct in assuming that she received the and if such were the fact it was properly deducted from the gratuity.

It can readily be seen that the family of an officer who had granted an allo upon which a [illegible] of dollars may have been received after his death, and his loss became and will would have a decided pecuniary advantage over the fa an officer lost on the same calamity who had given no allotment, if the overpa already made to the government should not be deducted. It is evident that Co intended the pay of the officer to be considered in connection with the gratu the grant of twelve months' pay to the families of those lost in the Somers (9 S Large, [illegible]), Washington (9 Stat. at Large, 74[illegible]), and Grampus (10 Stat. at 76[illegible]) was in addition to the pay due the said deceased "at the date of the loss vessel."

The above, as far as I can judge, appear to be the principal reasons why t counting officers decline to allow Mrs. Conway's claim for the full amount gratuity.

I am, sir, respectfully, your obedient servant,

WM. B. MOORE,
Acting Aud

Hon. W. C. WHITTHORNE,
House of Representatives.

7TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1228.

TONNAGE DEDUCTIONS.

MAY 12, 1882.—Referred to the House Calendar and ordered to be printed.

Ir. PAGE, from the Committee on Commerce, submitted the following

REPORT:

[To accompany bill H. R. 5841.]

The Committee on Commerce, to whom was referred the bill (H. R. 841) to provide for deductions from the gross tonnage of vessels of the 'nited States, beg leave to report the same to the House with amendıents, to wit:

Insert after the word "vessel," in line 30, the words: "But the outtanding registers or enrollments of vessels of the United States shall ot be rendered void by the addition of such new statement of her tonage, unless voluntarily surrendered, but the same may be added to ıe outstanding document, or by an appendix thereto, with a certificate of collector of customs that the original estimate of tonnage is amended;" nd insert after the word "act," in line 3, page 3, the words: "And he hall establish and promulgate a proper scale of fees to be paid for the admeasurement of the spaces to be deducted from the gross tonnage f a vessel, on the basis of the last sentence of section 4186 of the Reised Statutes, beginning with the words 'But the charge for the measrement.'"

And the said committee recommend that the bill so amended do pass, ıch recommendation being based upon the following communication om the Secretary of the Treasury:

TREASURY DEPARTMENT, *April* 25, 1882.

SIR: I have the honor to acknowledge the receipt of your letter of the 20th instant, closing the bill (H. R. 5841) to provide for deductions from the gross tonnage of vesls of the United States, and submitting the same for my consideration.

I would say in reply that most of the maritime nations of Europe in the admeasureent of vessels provide for certain deductions from the gross tonnage of a vessel; the sidue after these deductions are made is called the net or register tonnage; but all aritime nations do not agree in the extent of the deductions to be made.

For example, under the laws of Great Britain the following deductions are allowed: irst, in all vessels there is deducted the capacity of the space for berthing the crew, ıless that capacity exceeds one-twentieth of the remaining tonnage of the ship, then ıe-twentieth only of the crew space is to be deducted; secondly, in vessels propelled steam or other machinery the space occupied by the propelling power, namely, the ıgines or other motor, the boilers, and, in screw-vessels, in addition thereto, the shaft ley or trunk.

A second and more practical rule appears from the inspection of British registers to allowed by British laws, and to be invariably followed. It is as follows: The ınnage of the actual measured spaces occupied by or required to be inclosed for the oper working of the boilers and machinery, with the addition in the case of ships opelled by paddle-wheels of one-half, in the case of ships propelled by screws of three urths, of the tonnage of such space, is to be deducted from the gross tonnage.

This last rule is practically identical with the so-called "Danube rule," adopted by ıe international commission at Constantinople in the year 1873. France, Spain,

Sweden, Denmark, and Holland observe rules similar to those of Great Britain in their deductions from gross tonnage. According to the British rules, no deduction is made for the spaces in a steam-vessel occupied as permanent coal-bunkers.

The rules adopted for deductions by the German Government, Norway, Italy, and Austria-Hungary differ in some respects from those authorized by the British rules. They are as follows: In all vessels the crew space is deducted as by the British rule, and, in addition thereto, in vessels propelled by steam or other power, the actual tonnage of the spaces used for propelling power, namely, the engine-room, boilers, shaft alley or trunk, and, in addition thereto, the tonnage of the spaces occupied as permanent coal-bunkers. It is reported by the surveyor of customs at New York that the largest deductions from the gross tonnage are allowed by the British rules.

The rules of admeasurement adopted by most European powers are based on what is technically known as the "Moorsom system," which was adopted by the act of Congress of May 6, 1864, and reproduced in section 4153, Revised Statutes, but without making an allowance for any deductions similar to those allowed by the maritime nations of Europe.

In consequence of this omission, it is the practice at various ports of the United States, under article 137 of the customs regulations of 1874, to *add* to the net tonnage register of vessels of foreign nations, as expressed in their documents, the amount of the deductions made under their respective laws and not authorized by the admeasurement law of the United States.

It is customary, also, under treaty conventions, to accept the tonnage measurement of foreign vessels as expressed in their registers, in everything except the amount of the deductions, without a readmeasurement in this country. The deductions for tonnage, as expressed in the bill, seem, in the opinion of this department, to allow in as clear and express terms as possible the deductions which may reasonably be allowed, if any deductions are to be made; and they may properly be inserted before the last paragraph of section 4153, Revised Statutes, beginning with the words "The register of the vessel shall express the number of decks."

I would suggest, however, the addition to the last paragraph of section 1 of the bill, in line 30, the following words: "But the outstanding registers or enrollments of vessels of the United States shall not be rendered void by the addition of such new statement of her tonnage, unless voluntarily surrendered, but the same may be added to the outstanding document, or by an appendix thereto, with a certificate of a collector of customs that the original estimate of tonnage is amended."

The second section of the bill proposes to repeal section 4154, Revised Statutes. The section in question carries into the Revised Statutes from the general collection act of March 2, 1799, the old system of measurement in force before the Moorsom system was adopted, and is incompatible with the provisions embodied in section 4153, Revised Statutes. Two entirely different systems of admeasuring vessels are not required, and should not stand together in the same statute-book.

The substitute for the present section 4154, Revised Statutes, proposes by authority of law to guarantee the acceptance of the tonnage measurements of foreign vessels, on the exhibition of their certificates of registry, without a remeasurement at a port in this country. The registers of the vessels of many foreign nations are thus accepted under the present practice at ports of entry by virtue of treaty conventions. The proposed section simply puts in the form of a statute that which, as regards many foreign vessels, is in force by treaty, but tenders the acceptance of the register to all nations that will extend a similar favor to this country. At the same time, the amended section does not exempt foreign vessels from remeasurement should it be expedient or for the interests of the revenue to require it. The second section may properly be adopted as it stands.

Unexpected details in regard to the form of making the changes in the registers of vessels may arise which may make it advisable for this department to issue special regulations on the subject. The third section is, therefore, proper as far as it goes. But I think a provision for the admeasurement fees should be added, in the following terms, after the words, in the third line, third page, "provisions of this act," namely: "And he shall establish and promulgate a proper scale of fees to be paid for the readmeasurement of the spaces to be deducted from the gross tonnage of a vessel, on the basis of the last sentence of section 4186 of the Revised Statutes, beginning with the words 'But the charge for the measurement.'"

I have thus far considered particulars in the form of the bill. As a matter of policy, some points touching its operation should be called to your attention.

First. A change in the law will entail a partial readmeasurement of *all* vessels of the United States; that is, vessels registered, enrolled, or licensed. All parts of the vessel to be deducted from the tonnage will need to be readmeasured. This will carry with it the expense of such measurement, which will in any event be but a small portion of the cost of the measurement of the entire vessel. The maximum cost of the admeasurement of a vessel depends upon the number of transverse sections into which she is divided under sections 4153 and 4186, Revised Statutes. The greatest number

: parts that can thus be made in a vessel is sixteen, and fees are exacted at the rate f $1.50 per section.

Secondly. All the registers, enrollments, and licenses will need to be modified, enailing a collector's fee in every case for a certificate of 20 cents.

On the other hand, all registered vessels of the United States, in foreign countries s well as at home, would have the advantage of the reduced tonnage tax (30 cents er ton per year), to the deductions made for the deducted spaces, and all classes of essels in the United States that pay wharfage, in part, in proportion to tonnage measrement, would reap a profit corresponding to these deductions. In screw-steamers ie space occupied by the propelling power varies between 13 and 20 per cent. of the ross tonnage, and in paddle-wheel steamers the variation is between 20 and 30 per ent.

Steam-vessels would, of course, profit more than sai-lvessels by the contemplated eductions.

No enrolled and licensed vessels except those employed on the Northern lakes would erive any advantage from the proposed deductions except in wharfage, and perhaps pilot charges. But the wharfage charge alone on the Western rivers is supposed to considerable, and steamboat owners are generally desirous of a low estimate on the nnage of their vessels for that reason.

While the shipping of the country gains by these deductions, the loss to the reveie from the tonnage tax of 30 cents per ton (collected once a year) would not obably exceed 20 per cent. of the amount collected from both foreign and doestic vessels. The total amount of this tax collected from all vessels up to the close the last fiscal year was over a million and a half of dollars. The total amount colcted from vessels of the United States only, for the same period, was but a little in cess of a quarter of a million.

I think the loss to the revenue likely to arise from an abatement in the tonnage tax, en if it were as much as 20 per cent. of the gross amount collected, should not objected to the passage of the bill. But it must be remembered that under treaty ipulations any deduction from our own tonnage tax will need to be granted in the me way or rate to the vessels of most foreign nations.

The sole question of importance is, whether the expense of partial readmeasureents will be a burden to the shipping interested likely to be more than compensated the lapse of time by gains from the deductions.

It is my opinion that the profit from the deductions will outweigh the inconvenice of the expense, and that a change in the system of admeasurement may with lvantage be made as contemplated. But I submit the question to the judgment of e committee.

Very respectfully,

CHAS. J. FOLGER,
Secretary.

Hon. H. F. PAGE,
Chairman of Committee on Commerce.

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1229.

LIGHT-HOUSE ON THE HUDSON RIVER AT DANSKAMMER POINT.

MAY 12, 1882.—Referred to the Committee on Appropriations and ordered to be printed.

Mr. PAGE, from the Committee on Commerce, submitted the following

REPORT:

[To accompany bill H. R. 5557.]

The Committee on Commerce, to whom was referred the bill (H. R. 5557) making an appropriation for the erection of a light-house on the Hudson River, at Danskammer Point, beg leave to report the same to the House with the following amendments:

In line 4, strike out the word "two" and insert the word "five"; in line 5, strike out the words "erecting a light-house" and insert the words "establishing a fog-bell"; and in the title of the bill strike out the words "erection of a light-house" and insert the words "establishment of a fog-bell," and recommend that the bill, so amended, do pass.

This recommendation is based upon the following letter from the Light-House Board:

TREASURY DEPARMENT,
OFFICE OF THE LIGHT-HOUSE BOARD,
Washington, April 28, 1882.

SIR: Respectfully referring to department letter of April 19, transmitting with other bills for the views of the Light-House Board thereon, bill H. R. 5557, making an appropriation for the erection of a light-house on the Hudson at Danskammer Point, I have the honor to state that this matter was considered by the Board at its session on April 27, when, in view of all the facts ascertained from a careful examination as to the needs of navigation, the conclusion was reached that the establishment of a fog-bell at Danskammer Point would be sufficient, and that for this purpose the sum of $5,000 should be appropriated.

The bill (H. R. 5557) referred to the department by the Committee on Commerce of the House of Representatives, on April 18, is herewith returned.

Very respectfully,

GEO. DEWEY,
Commander, U. S. N.,
Naval Secretary.

The Hon. SECRETARY OF THE TREASURY.

7TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1230.

FOG-SIGNAL ON LIME POINT, HARBOR OF SAN FRANCISCO, CAL.

MAY 12, 1882.—Referred to the Committee on Appropriations and ordered to be printed.

Mr. PAGE, from the Committee on Commerce, submitted the following

REPORT:

[To accompany bill H. R. 6180.]

The Committee on Commerce, to whom was referred petition of the San Francisco Chamber of Commerce urging the erection of a fog-syren at Fort Point, harbor of San Francisco, Cal., beg leave to report the same back with the accompanying bill "for the establishment of a steam fog-signal on Lime Point, San Francisco Harbor," with the recommendation that said bill do pass.

This recommendation is based upon the following expression of views by the Light-House Board:

TREASURY DEPARTMENT,
OFFICE OF THE LIGHT-HOUSE BOARD,
Washington, D. C., May 10, 1882.

SIR: The Board has the honor to acknowledge the receipt of department letter of May 4, inclosing another from the chairman of the House Committee on Commerce of May 3, asking the opinion of the Board, at an early day, upon the necessity of establishing a steam fog-signal at or near Fort Point, in the harbor of San Francisco, Cal., with an estimate of its cost.

In reply, the Board begs leave to say that it has made haste to obtain all possible data bearing upon the matter, and after careful deliberation has reached the conclusion that the interests of the commerce going in and out of this harbor, and the navigation of the waters leading to and from the Golden Gate, imperatively require the establishment of a steam-fog signal, either at Fort Point on the one side or on Lime Point on the other side of the narrow entrance to that harbor.

There is now a fog-bell on Fort Point, which does not answer the requirements made upon it, not only because it does not produce a sound of sufficient volume, but because there is an evident obstruction to the transmission of sound, so that vessels coming in from the south, when near Point Lobos, often make the sound of the bell clearly, then lose it just when they most need it, and again get it after they have passed Fort Point, and are out of danger.

If a steam fog-signal were to be located on Fort Point, it would have to contend with similar acoustic disadvantages, as it would be placed nearly a quarter of a mile within the dangers which it would mark, in a kind of corner, with the scarp of the fort just back of it, and with high bluffs to the south and west. Hence there is strong probability that a steam fog-signal on Fort Point could make itself heard in those places where the fog-bell is now inaudible. But a steam fog-signal placed on the only proper site, which Lime Point offers for it—a tongue of land jutting from the main shore line—would, in all probability, have every acoustic advantage, and there is every guarantee, short of actual trial, that it would be so.

When the sound of a signal on Lime Point is once picked up anywhere outside the harbor or off the city front, it can be steered for directly, and with confidence, until it is so close aboard that it can be made in the thickest weather; and then the position can be determined with such accuracy that a straight course can be laid either for the city or to the sea.

The preferred site on Lime Point is on the north side of the Golden Gate, opposite

Fort Point, and is already the property of the United States. A signal on this site, it is almost certain, would be subject to no practical acoustic disadvantages, and it is believed that it could be heard by vessels wherever they were, if within actual ear-shot.

It is estimated that a steam fog-signal properly established on Lime Point, with all its necessary appurtenances and with a keeper's dwelling, will cost $12,000.

Under the circumstances, the Board gives its opinion without hesitation that proper steps should be taken, as soon as may be, for placing a steam fog-signal on Lime Point.

The letter of Mr. Page, Chairman of the Committee on Commerce of the House of Representatives, is herewith returned.

Very respectfully,

F. U. FARQUHAR,
Major of Engineers, U. S. A., Engineer Secretary.

The Hon. SECRETARY OF THE TREASURY.

C

7TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1231.

ELIZABETH REESE.

MAY 12, 1882.—Laid on the table and ordered to be printed.

[r. WADSWORTH, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 2794.]

'he Committee on Invalid Pensions, to whom was referred bill H. R. 2794, would respectfully report:

That they have had the same under consideration, and that John Reese, husband of claimant, Elizabeth Reese, enlisted October 7, 1861, a Company C, Fourteenth New York Volunteers, and was discharged January 2, 1863, for loss of index finger of right hand and chronic orchei-is. January 26, 1863, he applied for pension, which he obtained, and eceived payment thereunder until his death, July 20, 1871. His widow, his claimant, applied for pension August 30, 1872. He died, as appears, f acute rheumatism and exhaustion. Claimant's application was re-ected October 16, 1873. Claimant then applied to Congress and a pecial act for pension was passed, and became a law May 25, 1878, ince which time she has received payment thereunder.

This bill is introduced to give her arrears of pension from the death f her husband, July 20, 1871, to the date of her special act, May 25, 878. It does not appear in this case, upon all the evidence and papers led, but that the original rejection of the claim was according to law, nd the pension granted by Congress to claimant was a gratuity, and o legal or equitable grounds exist to entitle her to the claim made; and n view of the precedent that would be thus established, the committee eport adversely upon the bill, and ask to be discharged from its further onsideration.

C

7TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1232.

SAMUEL L. WELLS.

MAY 12, 1882.—Laid on the table and ordered to be printed.

r. WADSWORTH, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 3715.]

e Committee on Invalid Pensions, to whom was referred the bill (H. R. 3715) granting an arrears of pension to Samuel L. Wells, would respectfully report:

That they had the same under consideration, and find that Wells ented December 18, 1863; was mustered January 10, 1864, as private mpany E, Twenty-second New York Cavalry Volunteers; discharged gust 1, 1865; filed his declaration for pension August 7, 1874; pension anted November 21, 1879, at $4, with arrears from August 2, 1865, at at rate, to November 5, 1879, and from that date at the rate of $6. pril 5, 1881, he applied for an increase, which was granted, to $10 per onth, beginning with October 6, 1880, which has been paid, and he is w receiving a pension at that rate.

Wells subsequently applied, claiming that he should have the differce between the pensions first granted and that now allowed for the ole time, or $6 more from August 2, 1865, to November 5, 1879, d $4 more from November 5, 1879, to October 6, 1880, making $10 r month for the whole time. This was refused by the Commissioner Pensions, and this bill is introduced to provide for same. The comittee find, on examination of all the papers in this case, that Wells was ver injured in battle, but is suffering from imflammatory rheumatism d its effects, which are believed to be the result of camp exposure. e allowance of the Pension Office of the arrears has been fully in acrdance to the law and physical disability reports of the examining rgeons, and the papers in the case, and your committee are wholly able to discover that the claimant has not had allowed to him all that is entitled by the law and the facts of this case; they therefore report this bill adversely, and request to be discharged from its further nsideration.

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1233.

WILLIAM T. BROWN.

MAY 12, 1882.—Laid on the table and ordered to be printed.

Mr. WADSWORTH, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 2537.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 2537) granting a pension to William F. Brown, would respectfully report:

That they have had the same under consideration, and that they find that William T. Brown, therein named, claimant for pension, enlisted August 20, 1863, in Company C, Sixteenth New York Heavy Artillery, and was discharged August 21, 1865.

July 8, 1871, he filed his claim for a pension, based upon an alleged gunshot wound in the left hip and abdomen, received at the battle of Chapin's Farm, Virginia, October 7, 1864. There is no doubt but that claimant has the scars of such a wound as he alleges.

He asserts his inability to procure proof from any of the officers or surgeon of his company of the wound. The company was located where they doubtless engaged in that battle. Henry L. Adams, the second lieutenant of Company F, One hundred and seventeenth New York Volunteers, swears he met claimant on that day and he was covered with blood, and he asked him if he was wounded, and he replied, "Yes, I am hit a little, but I can't stop for that." This he claims to substantiate by the affidavit of Nathan B. Wilber, second lieutenant Company G, Sixteenth New York Heavy Artillery, comrades John Sullivan and Joseph Thorn and George Waterman.

Wilber denies ever making any affidavit, and comparison of handwriting shows the affidavit in favor of Brown, purporting to be made by him, is a forgery.

John Sullivan, on examination, swears that he did not know what was in the affidavit he made, except what he was told, as it was not read over to him, but that he was in the battle of Chapin's Farm, Virginia, and the next day heard it claimed that Brown did not take an active part in the battle, but "stood behind a tree until the fighting was over," and "went out and brought a wounded Confederate officer into camp"; that Brown the next day after the battle appeared well, and he never heard of any claim that he was wounded at that battle until about the time Brown applied for a pension; that he had refused to make an affidavit of such wounding at said battle; that Brown was not injured, to his knowledge, at that battle or otherwise.

Joseph Thorn, on examination, swears that the affidavit made by him is not true; that he was drunk and did not know what he swore to

therein; that Brown was not injured to his knowledge; that he was not in same company with Brown, and he knows nothing about it.

Henry Nichols, sworn, is a practicing physician, and has known Brown twenty years, and been his family physician most of that time. That on September 3, 1865, Brown came to him for advice with reference to a wound of the left hip and abdomen not then fully healed. This would be nearly eleven months after the battle, and thirteen days after Brown's discharge from the service, yet there is no record whatever of his disability or wound.

Brown was, before the war and since, a canal boatman. Except in connection with an effort to get evidence to be used in his pension claim, he does not appear to have been disabled from his usual employment since the war.

One of his neighbors testifies that Brown was home after the battle of Chapin's Farm, and that he did not appear or claim to be wounded, and several neighbors swear he did not appear or claim at the time of his discharge or for several years immediately thereafter, that he was wounded or at all disabled.

One comrade of his company swears he saw Brown before the battle of Chapin's Farm, and also the next day after it, and that he made no complaint or claim that he was injured or wounded in that battle, and did not appear lame or disabled at all. As Waterman speaks of the wound from hearsay alone, the claim is only substantiated by the affidavit of Second Lieutenant Adams, One hundred and seventeenth New York Volunteers, not Brown's company, who only claims to have seen Brown when Brown was in such a hurry he could not stop to attend to the wound, and yet he saw a "severe wound in the left side of the abdomen running out at the hip," but cannot say how the wound looked.

Proof of the fact that one affidavit in this case is proved a forgery; that two others are sworn by the parties making the same to be untrue and without foundation; that no officer of the company or comrade swears to the injury or knowledge of the same; that comrades do swear to facts inconsistent with Brown's being wounded at the battle alleged; that his family physician saw the wound not healed eleven months after the battle, and yet no company or other surgeon ever heard of it, and no record or rolls or otherwise suggests such wounding at said battle or disability therefrom afterwards, your committee have arrived at the same conclusion of the Pension Office, that there is no satisfactory proof that the alleged disability was received in the military service, and especially not in the battle alleged, and your committee report back the bill adversely, and ask to be discharged from its further consideration.

7TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1237.

RICHARD JOBES.

[AY 12, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Ir. MATSON, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6181.]

'he Committee on Invalid Pensions, to whom was referred the petition of Richard Jobes for an increase of his pension, have had the same under consideration, and report as follows:

Richard Jobes, late of Company D, Sixteenth Regiment Connecticut 'olunteers, lost his left forearm in the battle of Antietam on the 17th ay of September, 1862, and on account thereof has been pensioned at he rate of $18 per month. At the first amputation a nerve was tied n with the ligatures so as to cause the pensioner excruciating pain, and n a year afterwards a second operation was determined upon after a onsultation of the post surgeons at Knight Hospital, New Haven, 'onnecticut, and the nerve was then cut out for some distance above he point of amputation. This failed to give any relief, and this pen- ioner has since then suffered very great pain on account of said wound, nd is for a greater part of the time unable to take any exercise or do nything that tends to create heat without great suffering.

The facts are certified to by four respectable physicians of Suffield, 'onn., who are well acquainted with the petitioner and have treated im at various times. In addition to this, 102 citizens of said town nite in a petition stating substantially the extent of his disability and he facts of his extreme suffering, and certifying to his good character, tc.

It appears to the committee that this is an exceptional case, that the etitioner's pension ought to be increased, and they therefore report the ccompanying bill and ask that it do pass.

TH CONGRESS. } HOUSE OF REPRESENTATIVES. { REPORT
1st Session. } { No. 1238.

ALFRED C. DEATS.

AY 12, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

[R. MATSON, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 5853.]

he Committee on Invalid Pensions, to whom was referred the bill (H. R. 5853) for the relief of Alfred C. Deats, have had the same under consideration, and beg leave to submit the following report:

From the papers before the committee it appears that Deats was a ivate in Company K, One hundred and forty-first Regiment New ork State Volunteers. He is a pensioner at $2 per month for loss of rt of right thumb, and claims increase of pension on account of an injury breast received at or near Resaca, Ga., May 17, 1864. This claim has en rejected by the Pension Office because there is no record of this jury, and the evidence filed in support of the allegation is not deemed fficient to show origin in the service.

An examination of the evidence shows that the soldier injured and slocated the left breast-bone in consequence of jumping a ditch, while lly equipped, in carrying a heavy knapsack. This is testified to by the st lieutenant of the company, and constructively corroborated by the cord, which shows that the soldier was absent, sick in hospital, durg the period for which he claims treatment for said injury. That he d no such injury when he enlisted, and that upon his return home, ter nearly three years' service, and ever since, he has been suffering om this injury to breast, is established by evidence satisfactory to this mmittee.

The disability is described by the examining surgeon as follows:

There is a bending of the cartilages at the junction of the sixth and seventh ribs, t side, and quite a prominent distortion at that point. Cannot lift anything heavy, ch hay, &c., as it causes pain in left breast. Cold seems to settle in left side, preting exercise of any kind for three or four weeks at a time.

The rating made by the surgeon is in excess of that asked for by the nsioner.

Being satisfied that the injury to breast was received in service and e of duty, although not fully established under the rules of the Pen-on Office, the committee report favorably on the bill, and ask that it pass.

'TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1239.

ELIZA M. BASS.

AY 12, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

'r. MATSON, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6008.]

'he Committee on Invalid Pensions, to whom was referred bill H. R 6008, have had the same under consideration, and beg leave to report as follows:

Sion S. Bass was the colonel of the Thirtieth Regiment Indiana Volnteers, and was killed in the battle of Shiloh, April 7, 1862.

Eliza M. Bass was his widow until May 27, 1868, when she married ne William Burrett. She was divorced from Burrett in May, 1871 ıving lived with said named husband but a short time, and being vorced on account of cruel treatment. She was also a daughter of rs. E. E. George, who was one of the most distinguished of the women ho gave their services to the sick and wounded soldiers of Indiana, ıd who died at Charlotte, N. C., while engaged in this charitable and ıtriotic occupation.

Mrs. Bass, by her marriage, lost her right to a pension. She asks that ne right be restored to her, and shows that she is in indigent circumtances and needs to be helped in some way.

This committee believe that she is entitled to be restored to the roll, ınd recommend that the bill pass, striking out all after the word 'Volunteers," in line 7 of said bill, and inserting the words "from and ıfter the passage of this act."

TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1240.

JOHN R. SMITH.

Y 12, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

. MATSON, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 4992.]

e Committee on Invalid Pensions, to which was referred the bill (H. R. 1992) for the relief of John R. Smith, having had the same under consideration, begs leave to submit the following report:

John R. Smith was mustered as first lieutenant in Company B, Twelfth liana Cavalry, December 16, 1863; promoted to the rank of captain ril 1, 1865, and honorably mustered out of service November 10, 1865. the 14th day of February, 1871, he was allowed a pension at $2 per nth from date of discharge, on account of hemorrhoids contracted in service. This rate was increased to one-fourth of total in rank, or .25 per month, by a reissue made March 8, 1871. On the 30th of Sepnber, 1871, this rate was increased to $13 per month from November 29, 69. On the 26th of May, 1873, a further increase to $18 per month m April 2, 1873, was allowed.

He asks that in lieu of the rate heretofore allowed he be granted a nsion of $15 per month from the 11th day of November, 1865 (date his discharge from the service), to the 4th day of July, 1871, and from at time $18, deducting payments heretofore made.

An examination of the papers in the case shows that at the first medi- l examination, November 29, 1869, the pensioner's disability, on acunt of hemorrhoids, was rated at three-fourths of total. Another amination, had July 15, 1870, by a different surgeon, showed the same gree of disability, while an examination had July 4, 1871, showed a ability total in degree. Why the ratings made by different examin- surgeons were disregarded by the Pension Office does not appear m the papers on file in the case.

From the description of the disability contained in the medical certifites, it is evident that the original rate as well as the rate allowed by reissue in 1871 was too low, but the committee is of opinion that stead of the $15 asked for the period intervening between the 11th day November, 1865, and the 4th day of July, 1871, the rating made by the amining surgeons, at three-fourths of total in rank, should be adopted m the first named date to the date on which the $13 rate commenced. is rate (the three-fourths) would seem to be commensurate with the gree of disability shown by the original papers in the case, as well as pers recently filed before this committee.

The committee, therefore, recommends that all after the word "pension," in line 8 of the bill, be stricken out, and the words "of twelve dollars seventy-five cents per month from the 11th day of November, 1865, until the 29th day of November, 1869, deducting therefrom all sums heretofore paid for that period" be inserted instead, and that the bill thus amended do pass.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1241.

SAMUEL HORNER.

MAY 12, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MATSON, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill S. 1313.]

The Committee on Invalid Pensions, to whom was referred the bill S. 1313, *have had the same under consideration, and beg leave to report as follows:*

At the time of John Morgan's raid through the State of Indiana, Samuel Horner enlisted in the One hundred and eighth Regiment of Indiana State Militia, and contracted paralysis while in said service, which still continues. He was not mustered into the service of the United States, but was doing the duty of a soldier of the United States at Cincinnati, Ohio, at the time of incurring this disability. His claim was not prosecuted to a successful issue prior to February 4, 1874, and for that reason was rejected by the Pension Department, according to the provisions of section 4693 of Revised Statutes.

In the opinion of the committee he is entitled to be pensioned, and they therefore recommend that the bill do pass.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1242.

SARAH M. RAMSEY.

MAY 12, 1882.—Laid on the table and ordered to be printed.

Mr. MATSON, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6064.]

The Committee on Invalid Pensions, to whom was referred the bill H. R. 6064, have had the same under consideration, and beg leave to report as follows:

William Ramsey was a private in Company H, One hundred and fortieth Pennsylvania Volunteers. He applied for a pension on the 10th day of June, 1876, on account of a sprain of his thumb occurring while in the service and in the line of duty. This claim was rejected.

His widow, Sarah M., applied for a pension January 19, 1879, on account of the death of her husband, which occurred March 10, 1878. Her claim was generally for injuries received and diseases contracted in the service. Her claim was also rejected, and she now comes to Congress for relief. This case was very carefully investigated by the Pension Department. In addition to the ordinary methods, a special investigation was given it by an agent who visited the residence of said Sarah M., and took testimony. The proof is overwhelming that said William died of scrofula, existing long prior to his enlistment. The action of the Commissioner of Pensions was manifestly right, and we therefore report adversely, and ask that the bill lie upon the table.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1243.

MARY CRAMER.

MAY 12, 1882.—Laid on the table and ordered to be printed.

Mr. MATSON, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1436.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1436) granting a pension to Mary Cramer, have had the same under consideration, and beg leave to report as follows:

Mary Cramer is the widow of George Cramer, late of Company A, Eleventh Regiment Pennsylvania Reserves. This soldier was severely wounded in battle, and discharged on account thereof. He died on the 26th day of May, 1867. The widow alleged in her claim before the Pension Department that her husband had died of the wound, and this claim was rejected there.

The majority of the committee, after a very careful consideration of this case, have concluded that the action of the department was right, and therefore report adversely, and ask that the bill lie upon the table.

O

7TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1244.

WILLIAM BOONE.

AY 12, 1882.—Reported adversely, committed to the Committee of the Whole House, and ordered to be printed.

r. MATSON, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 291.]

e Committee on Invalid Pensions, to whom was referred the bill H. R. 291, have had the same under consideration, and beg leave to report as follows:

William Boone was a private in Company F, Eighty-eighth Regiment diana Volunteers He was taken prisoner in November, 1862, and was roled, and while at Aurora, Ill., on parole, on the 4th day of July, 1863, hile engaged in firing a salute in celebration of the fall of Vicksburg, the premature discharge of a cannon he was assisting to fire, he lost s right arm, and his left hand was injured so as to render it partially d permanently useless. He states in an affidavit that the citizens of id town were engaged in said celebration, and "that he participated erein at the special request of said citizens because he was a soldier, d because it became him so to do as a soldier and a patriot."

He has not applied to the pension department for a pension because says he understood there were technical objections to granting it der the rules and regulations of the Pension Office.

The granting of a pension is strongly urged by ex-Governor Jos. D. illiams and other distinguished citizens of said State. The surviving ficers of said regiment unite in a petition asking that his name be aced on the pension-roll, and assert that he was a gallant soldier, and ithfully, courageously, and honorably discharged his duties as a sol- er, and that by reason of his physical disabilities, which were caused d exist as above stated, his capacity to earn a maintenance for him- lf, his wife, and three children, who depend upon him, is almost en- ely destroyed. He further asserts that at the time of his enlistment was a farmer by occupation, and that by reason of his injuries so re- ived, he has been ever since said time, and still is, prevented from ursuing his occupation. These facts are all taken to be true, and yet e essential fact remains unproven: That the injury did not occur in e line of his duty as a soldier, as the duties of a soldier are presented y the rules and regulations governing the Army.

There are probably precedents for the granting of a pension in such ses as this, by special acts of Congress, but none such have been nowingly recommended by this committee. It is a case well calcu- ted to excite the sympathy and pity of all, but Congress cannot un-

dertake to relieve every unfortunate one. And the only safe rule seems to be that only in those cases where there is an implied contract between the soldier and the government ought pensions to be granted. In the application of this rule your committee would feel disposed to be libera; and only in very extreme cases would we feel justified in going outside of it to give relief even to the most worthy.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1245.

JOHN O. O'NEILL.

MAY 12, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MATSON, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 5505.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 5505) granting an increase of pension to John O. O'Neill, have duly considered the same, and beg leave to report as follows:

John O. O'Neill was a captain in the One hundred and sixteenth Regiment of Pennsylvania Volunteers, and was dangerously wounded in battle. He is now, and has been ever since his said wound, drawing the full pension of a captain. He asks for an increase to $30 per month, and furnishes the affidavit of one S. A. H. McKim, M. D., in support of his claim. The substance of this testimony is that the pensioner is threatened with paralysis. There is nothing to show that the pension he is now receiving is inadequate to the present disability.

The committee report adversely, and ask that the bill lay upon the table.

TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1246.

SUSAN M. HOLLAND.

MAY 12, 1882.—Laid on the table and ordered to be printed.

:. MATSON, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 931.]

ie Committee on Invalid Pensions, to which was referred the bill (H. R. 931) granting a pension to Susan M. Holland, has had the same under consideration, and begs leave to submit the following report:

Susan M. Holland, as appears from the papers on file in the Pension ffice, is the widow of Benjamin P. Holland, who enlisted as second :utenant in Company A, Fourth Cavalry, Missouri State Militia, Janıry 28, 1862, and served until mustered out as captain of Company F, hirty-fifth Missouri Volunteers, June 28, 1865. He was pensioned at ıe-half of total in the rank of first lieutenant for chronic diarrhœa, ıd died September 23, 1876, of typho-malarial fever. The widow's aim has been rejected by the Pension Office on the ground that the tal disease originated after discharge and was not in any way a re-lt of diarrhœa, for which the soldier was pensioned.

From this action an appeal was taken to the Secretary of the Inte-ɔr, who affirmed the same in words as follows:

Typho-malarial fever is a disease which runs its course within a few weeks. It had, erefore, in this case, no direct connection with the service. The depressed condi-ɔn of the system which resulted from chronic diarrhœa no doubt predisposed the ısband of the applicant to the attack of fever, but such connection between the tal disease and the service is too remote to bring her claim within the provisions of e pension laws.

Your committee is of the opinion that the conclusion reached by the ecretary of the Interior is proper, and therefore reports adversely on ıe bill and asks to be discharged from its further consideration.

ONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 1247.

ALGER J. BALDWIN.

882.—Committed to the Committee of the Whole House and ordered to be printed.

CE, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 3126.]

nmittee on Invalid Pensions, to whom was referred the bill (H. R. for the relief of Alger J. Baldwin, submitted the following re-

J. Baldwin enlisted in Company D, Fifth Vermont Volunteers, 19, 1861, and was discharged November 18, 1862. He was pen- April 4, 1864, at $4 per month, for heart disease, shown to have ntracted in the service. It appears that he re-enlisted on the February, 1864, in Company I, Fifty-sixth Massachusetts Volun- nd was discharged on the 20th of February, 1865, upon certifi- disability, setting forth phthisis pulmonalis and abdominal dependent upon heart disease claimed to have been contracted listment. Having failed to claim his pension for more than three is name was dropped from the pension rolls, under the provis- the general pension laws. He applied for restoration to the d during the pendency of his claim for restoration it was dis- that he was discharged from the first service for valvular dis- the heart, with hypertrophy, which, according to the certificate surgeon, existed prior to enlistment. Upon that showing his r restoration was rejected, which rejection, upon appeal, was l by the Secretary of the Interior, on the ground that the disa- r which he was originally pensioned was not incident to the

vidence upon which the claim was originally allowed consisted ffidavits of the lieutenant-colonel of the regiment, as well as the tenant of the company, showing soundness at the time of en- t, and origin of the disease in the service and line of duty. Since ction of the claim for restoration he has filed a number of affi- including those of neighbors, the family physician, and the as- surgeon of the regiment in which the claimant first served.

l Dustin testifies that he was the claimant's father's family phy- nd that he knows the soldier was sound at the time of his en- t. The assistant surgeon of the regiment testifies that he has n the family physician of the soldier's father's family for the last years; knows that heart disease is not hereditary in the family, t the claim for pension is, in his opinion, an honest one. The

neighbors testify that there is no heart disease in the family, except as through the soldier, and that he was, prior to his entering the service, a stout and healthy boy, free from any disease, and that had heart disease existed at that time they surely would have known it.

The committee recommend the passage of the bill.

O

ONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 1248.

LIZZIE M. MITCHELL.

1882.—Committed to the Committee of the Whole House and ordered to be printed.

ULLEN, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 3581.]

mittee on Invalid Pensions, to whom was referred the bill (H. R. granting a pension to Mrs. Lizzie M. Mitchell, having had the under consideration, beg leave to submit the following report:

examination of the papers in this case, your committee adopt tially the following report made at the last session of Congress, ommend the passage of the bill:

l from an examination of the papers submitted to the committee and originally ie Pension Office that the petitioner is the widow of Capt. John Mitchell, of United States Infantry, who served faithfully in the Army of the United th before and during the war of the rebellion. When the First and Forty- iments of United States Infantry were consolidated, Captain Mitchell, then utenant-colonel, was examined by a board of officers and found to be so wounded as to be unable to do active duty. He was placed on "waiting nd afterwards sent on several details with recruits to the forts in the Indian and other remote points. Just after the performance of one of these duties ed to Fort Leavenworth, laboring greatly with his wound, and died at that ember 13, 1869. The widow has made an earnest attempt to obtain a pen- in view of the record the Pension Office declines to admit her. This record tificate of the assistant surgeon of the post, in which the cause of death of the given as "alcoholism" and disease not incident to the service and line of ie petitioner has filed with your committee a mass of evidence of the most re- character, which is undoubtedly entitled to credence, and from a thorough ion of the same, your committee believe that she is entitled to the relief she

recapitulated, the evidence against the record made by the surgeons at Fort orth is about as follows:
nmanding officer of the deceased officer's regiment, in a eulogistic letter, is death was undoubtedly owing to the effect of wounds received during his d efficient service in the Army." One of the lieutenants of his company, present with him at Fort Leavenworth at the time of his death, states as fol-

w Captain Mitchell to be a strictly temperate man in every respect, com- the respect of those under him and the confidence of those above him. The I met him was on recruiting service at Fort Leavenworth, in 1869. The duty which he was performing was conducting recruits across the plains to he remote frontiers, a duty most arduous and trying in its nature, and re- ie officers in charge not only to perform their duties efficiently and discreetly, ercise a paternal care over the inexperienced recruits. If my opinion should weight, from knowing Captain Mitchell so long and intimately as I have, I hesitatingly assign the cause of his death to wounds received in action."
Hill, who was the body-servant of the officer from 1864 until his death,

is badly shot in one arm, so that I had to be near and assist him. Knew his

character and habits well; they were good. The captain was not a drinking man in the sense in which that term was understood; he was always present for every duty, even more so than any of the lieutenants under his command.

"I was with Captain Mitchell at Fort Leavenworth before and at the time of his death. The captain had been on duty about two weeks when he died. He was suffering from a cold, and was not well when he was ordered to take recruits out to Fort Scott. When he returned he was suffering very much with a cold, and was otherwise very unwell. His friends tried to get him to remain in the house and not to do so much duty, but after returning from his trip he took his tour as officer of the day, which entirely prostrated him. He was taken down sick, and never left his bed. The assistant surgeon came to see him on Friday, the 12th, but did not appear to think he was very sick. I was uneasy about him, and I thought he was sicker than the assistant surgeon seemed to consider him. In the afternoon of the 13th the assistant surgeon came to see the captain, but he did not appear to consider him very sick.

"I asked the assistant surgeon what was the matter with the captain. He replied. 'It was very strange; I do not know exactly, but think it is from having been wounded so severely and so often during the war.' The captain suffered very much from the wounds."

Dr. Edward W. Lee, surgeon P. F. W. and C. Railroad, certifies that—

"He was acquainted with the deceased officer from the latter part of 1866 to the time of his death. During that time he had frequent opportunities of observing his habits, and that at all times his condition was such as became an officer and a gentleman; at no time did he seem unfit to do his duty. He was suffering from necrosis of the bones of the right leg, and at times a blood-vessel would ulcerate through, causing profuse hemorrhage. There was an ulcer on the leg all the time, and several pieces of bone came through at different times. He had been wounded no less than four times. The right elbow was excised from injury, and he had a bullet in the left hip. These injuries undermined his health.

"I saw Captain Mitchell for the last time alive (September, 1869) on his way to the West, and from my observation I can truthfully say that his physical condition was such as to unfit him for the exposure that he subsequently underwent. I had an opportunity to examine the body after its arrival at Chicago, and considering that no special means were used for preservation, the condition of the remains would preclude the notion that the cause of death was alcoholism."

Corroborating the testimony as to the good character and even habits of the deceased are letters from several general officers who had personal and intimate knowledge of the deceased. The surgeon who made the record in 1869 has been written to, and we find the following memoranda in the case:

"Maj. Davis S. Magruder, surgeon, U. S. A., under date of February 7, 1878. That it is not possible to give any information about the case of Capt. John Mitchell, as at this date he has no recollection of it whatever."

B. J. D. Irving, surgeon and brevet colonel, U. S. A., in a statement written at Fort Wayne, Mich., January 24, 1871, says that in the summer and autumn of 1866, while he was serving as post surgeon at Fort Leavenworth, Kans., he knew Captain Mitchell during a period of six or seven months, and that his habits were good—those of a temperate man; that he was badly crippled from severe wounds, but was looked upon as one of the most promising and efficient young officers at the post.

The evidence of the body-servant above referred to shows that this surgeon had never seen or attended the captain except immediately before his death, when he expressed ignorance of the immediate disease.

The record of the Adjutant-General's office gives the following showing of the wounding of this officer:

"Wounded August 11, 1860, shot in left hip, rifle bullet, in engagement with Gosh Utes and Bannocks in the Ute territory. 2d. Antietam, right hand and face, September 17, 1862, by premature explosion of 12-ton gun. 3d. On or about November 14, 1863, pistol wound received in right leg accidentally by horse falling through bridge near Rappahanock Station, Va. 4th. Wounded in right elbow in action on Quaker's Road, near Boydtown Plank Road, Va., March 14, 1865. Operation, resection head of ulva and radius, union of extremities of these bones and humerus motion very slight."

Your committee, after a thorough consideration of the case, believe that the arbitrary record made by the surgeon has done great injustice to the petitioner, and that while the Pension Office is precluded from action in her behalf by that record, her case is entitled to the consideration and action of Congress. We therefore report favorably upon her prayer, and recommend the passage of the bill.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1249.

ELIZABETH LEEBRICK.

MAY 12, 1882.—Committed to the Committee of the Whole House and ordered to be printed

Mr. CULLEN, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 219.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 219) for the relief of Elizabeth Leebrick, submit the following report:

It appears, from an examination of the petition and accompanying papers, that the petitioner is a resident of Quincy, Ill., and is now over eighty-two years of age, the daughter of Jacob Angus, a Revolutionary soldier of the State of Pennsylvania.

The evidence before your committee shows that this lady rendered valuable aid to the soldiers, as nurse and attendant, in the different hospitals in the Southwest during the war of the rebellion, which were entirely gratuitous on her part, and that she spent of her own private means about the sum of $700 in this charitable work.

Dr. R. Nicholls, surgeon-general hospital, Quincy, Ill., June 8, 1863, states:

> Mrs. Leebrick having told me that it is reported that she receives pay for her services to the soldiers, I certify that never to my knowledge has she received any compensation for the valuable services rendered by her to this hospital.

Newton Flagg states, May 20, 1869, in a letter to the petitioner (dated Quincy, Ill.):

> I was stationed at this place as assistant quartermaster and acting commissary of subsistence during the late war. I can testify that during all that time you were the constant and devoted friend of all our soldiers, but more especially of those who were sick and suffering. I know that the greater part of your time for four years was spent in their service, and that by your efforts many thousands of dollars were gathered and distributed to the sick and wounded, not only in our own hospital, but to those in the field.

There are other letters showing the character and value of the service rendered by the petitioner, especially to our invalid soldiers, and it is shown that she met with a severe accident while assisting in the transfer of the sick and wounded after the battle of Shiloh, to Quincy, Ill.

The petitioner is partially blind, having lost the sight of an eye, and her husband has been totally blind for eight years. An application was made three years ago to the Pension Office for her relief, but as there is no law allowing a pension to this class of cases, nothing could be done there.

Your committee are of the opinion that this is a meritorious case, and, in view of the fact that there have been precedents established covering similar cases, and in view of the advanced age of the petitioner and her helpless condition, report favorably on her prayer, and recommend the passage of the bill (H. R. 219) for the relief of Mrs. Elizabeth Leebrick, with the following amendment: Add the words, "at the rate of sixteen dollars per month."

O

CORNELIUS FITZGERALD.

AY 12, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

:. CULLEN, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 3582.]

e Committee on Invalid Pensions, to whom was referred the bill (H. R. 3582) to reinstate Cornelius Fitzgerald on the pension-roll, having had the same under consideration, beg leave to make the following report:

Cornelius Fitzgerald enlisted on the 5th day of August, 1862, and was ustered into Company G, One hundred and sixth Illinois Volunteers, Lincoln, Ill., on the 17th day of September, 1862, for three years or uring the war. He served with his company and regiment until January 7, 1865, when he received a gunshot wound in the left leg fired by ie provost guard in the town of Pine Bluff, Ark., which resulted in the nputation of the leg above the knee. The Adjutant-General's report the Commissioner of Pensions, dated June 8, 1866, says:

Records on file report him discharged at Pine Bluff, Ark., July 17, 1865, of gunshot ound received January 7, 1865, said to have been received while resisting the provost guard at Pine Bluff.

Pending the application for pension proof was furnished which satised the Adjutant-General that the record in his office was erroneous, id it was amended. Under date of February 14, 1874, he reported to ie Commissioner of Pensions that—

Certificate of disability reports him discharged at Pine Bluff, Ark., July 17, 1865, cause of amputation of left thigh from gunshot wound received January 7, 1865, hile in the line of duty.

After a protracted examination of the case and correction of the recd in the Adjutant-General's office, as above, a pension was granted to itzgerald March 17, 1874, at the rate of $8 per month, commencing uly 18, 1865; $15 a month from June 6, 1866, and $18 a month from une 4, 1872. This amount was increased to $24 a month from June 1874.

Payment of pension was suspended by order of the Commissioner of ensions May 23, 1878, on the report of a special agent, on the ground iat the injury was not received by the soldier while in the line of duty, id his name was finally stricken from the pension-roll.

The question in this case is one of fact. The testimony taken by the ecial agent is quite voluminous, all of which we have carefully examied. It is mostly by soldiers of the regiment in which Fitzgerald served. consists largely of what was rumored in camp at the time of the shootg. But few of the witnesses had personal knowledge of the facts, and

and, while trying to escape from them, the said Fitzgerald was shot, not from any disobedience of orders, or from any provocation; that the the shooting of said Fitzgerald was wholly due to the disorderly conduct and drunkenness of said Thomas Hardin.

In view of the fact that Fitzgerald was a good soldier, who always performed his duties and was obedient to orders, it is not at all probable he would resist the orders of the provost guard. It appears conclusively proven that he was on his way to camp and that his being shot was the result of a misdirected shot, aimed, if aimed at all, at Thomas Hardin.

Your committee are of the opinion that injustice was inadvertently done this soldier. The witnesses upon whose testimony his name was stricken from the pension-roll have modified their statements, showing they were made on mere rumor, and testify strongly in his favor. We therefore recommend the passage of the bill (H. R. 3582) to restore the name of Cornelius Fitzgerald to the pension-roll.

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1251.

MARTHA ALLEN LACHMAN.

MAY 12, 1882.—Laid on the table and ordered to be printed.

Mr. DAWES, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 5129.]

The Committee on Pensions, to whom was referred the bill (H. R. 5129) granting a pension to Martha Allen Lachman, submit the following report:

Herman S. Lachman, or Henry Loekman, from various official orders and letters appears to have been employed, without compensation, in some special service, the nature of which is not made apparent. He was employed by Generals Butler, McPherson, and W. Savey Smith. The service indicated by these orders was subsequent to the battle of South Mountain. At this battle on September 14, 1862, it is alleged that Lachman, while in the uniform of an officer, and serving in some unknown capacity, was struck in the head by a fragment of a shell, and injured severely, and that the injury caused insanity and ultimate death. There is evidence to show that this man was treated in the field hospital. But your committee do not find sufficient evidence to justify the conclusion that the man was in the employment of the government when injured, although he was cared for in hospital after the accident. They therefore report adversely on the bill.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1252.

ANGUS McAULEY.

MAY 12, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WEBBER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 230.]

The Committee on Pensions, to whom was referred the bill (S. 230) granting a pension to Angus McAuley, submit the following report:

The committee have examined the evidence that the Senate report was based upon and concur in the same, and recommend that the bill do pass.

That they formerly considered this case, and on the 24th day of January, 1882, submitted to the Senate the following report:

"That a similar bill was reported favorably in the last Congress, as appears by the report, a part of which is as follows:

"'Angus McAuley was a soldier in the Seminole and Creek Indian war, and was pensioned at $2 per month from February 7, 1859. He was dropped from the rolls by reason of his residence within the limits of the insurrectionary States. He asks that he may be restored, and files evidence that he did not perform military service in the Confederate army.'

"In addition to the facts found in said report, in which finding your committee concur, it appears that said Angus McAuley was opposed to secession, and was loyal to the Government of the United States during the war of the Southern rebellion.

"Your committee recommend the passage of the bill with the following amendments: In line four strike out the words 'place on' and insert the words 'restore to'; in line seven, before 'war' insert the words 'Creek Indian,' and strike out the words 'of eighteen hundred and twelve' in the same line. Amend the title to read as follows: 'A bill to restore Angus McAuley to the pension roll.'"

That said bill was recommitted March 8, 1882.

Since the recommittal your committee have received the following affidavit, made by said Angus McAuley:

"STATE OF FLORIDA,
"*Suwanee County:*

"Before me personally came Angus McAuley, who being duly sworn, saith that he was a pensioner of the United States, because of wounds received in the service of the United States, and in the line of duty as a soldier in the Seminole and Creek war in Florida; that he opposed the secession of the State of Florida, and was always in favor of continuing the union of the States; that he took no part in the war, and was not in the military service; that he gave no aid or comfort to the Confederate cause; that he does not understand this statement to mean that he had no personal sympathy with his friends and relatives, or that he refused them any personal kindness which he was able to give, and which, as a Christian man, he would have given to any human being in need; that he does not understand this to mean that he did not pay taxes, or that he opposed, by violent means, the authority of the government.

"Deponent states that he was old, infirm, and unfit for any active duty or service, and that he had no means of leaving the country with his family, and that his opinion and feeling was always that it would be better for the Union to be restored.

"Deponent does not, and never did, consider himself as having done or intending to do anything which should forfeit his right to his pension.

"Deponent would have taken the oath if he had understood it to mean nothing more than the above.

"ANGUS McAULEY.

"Sworn and subscribed to before me this 22d day of March, A. D. 1882.

[L. S.] "ROB'T A. REID, *Clerk.*

"Per W. I. COLE, *D. C.*"

Your committee report the bill back to the Senate with the recommendation that the same be passed as proposed to be amended in the former report above set forth.

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1253.

ELIZABETH GRAY.

MAY 12, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. J. H. BURROWS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 1401.]

The Committee on Pensions, to whom was referred the bill (S. 1401) granting a pension to Elizabeth Gray, widow of Paddock Gray, submit the following report:

That they have examined the same, and the evidence filed in the office of the Commissioner of Pensions, and, while it does not appear that there is any record evidence of the service of said Paddock Gray, they are satisfied from the parol evidence in the case that he did serve fully three months as a soldier in said war, in Col. Stephen Martindale's regiment; that he served as a substitute for his brother, John Gray, and was in the battle of Plattsburg; that said Paddock Gray was married to Elizabeth Manley, your petitioner, soon after said war closed, and died April 24, 1858, leaving Elizabeth Gray, his widow, who still survives and remains unmarried; that Elizabeth Gray is now about 90 years of age, and in comparative poverty. They therefore report favorably, and recommend the passage of the accompanying bill.

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1254.

RALPH P. MILLER.

MAY 12, 1882.—Laid on the table and ordered to be printed.

Mr. RANNEY, from the Committee on War Claims, submitted the following

REPORT:

[To accompany bill H. R. 600.]

The Committee on War Claims, to whom was referred the bill (H. R. 600) for the relief of Ralph P. Miller, report as follows:

That this petitioner filed a claim before the Commissioners of Claims on July 27, 1871, for the value of plantation supplies, amounting to $5,651.35, alleged to have been taken from him by the Army of the United States during the late war. The commissioners rejected the claim in 1877 for want of satisfactory proof of loyalty.

An investigation of the proof taken by the commissioners discloses the fact that the petitioner was not a loyal citizen.

The committee are of opinion that it would be an unwise precedent to open the case, and that nothing now appears showing any oversight or manifest wrong, and that the adjudication of the commissioners should be final. The committee report adversely, and recommend that the bill do lie upon the table.

'H CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
1st Session. } { No. 1255.

SARAH J. HILLS AND AGNES W. HILLS.

r 12, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

. RANNEY, from the Committee on War Claims, submitted the following

REPORT:

[To accompany bill H. R. 6182.]

e Committee on War Claims, to whom were referred the bills (H. R. Nos. 92 and 843) for the relief of Sarah J. Hills and Agnes W. Hills, report as follows:

:t appears from the papers in the case, which are very voluminous, it General Butler, while in command at New Orleans, suppressed and k possession of the True Delta newspaper for a violation of a proclation, and that the property was occupied and used for printing pures for the Army, and a paper issued publishing orders, proclamas, &c.

'eneral Butler was finally succeeded in command at New Orleans General N. P. Banks, who, by special order No. 40, dated February 863, granted permission to the workmen employed on the Daily ta to continue its publication until further orders, under the manment of its foreman, one Henry Green.

'n the following day, by special order No. 41, General Banks directed:

ıragraph 10. The newspaper and job office of the Daily Delta, together with the ses, paper, type, ink, materials, &c., will be turned over to Lieut. Col. Alfred C. s, Fourth Regiment Louisiana Native Guards, and to Albert G. Hills, Esq., who charged with the publication of the Daily Delta newspaper and the management he job office from this date.

)n March 5, 1863, by special order No. 64, General Banks directed:

aragraph 6. Lieut. Col. Alfred C. Hills, Fourth Louisiana Native Guards, and it Lieut. Albert G. Hills, Fourth Louisiana Native Guards, are detailed for special y in this city (New Orleans) to take charge of the Era newspaper and job office, late, the former from the 23d, and the latter from the 20th ultimo (February).

:t appears from the papers that these officers remained in the service, until May, 1863, and the other until July, 1863, at which dates they igned their commissions. But they continued in the management l charge of the Era. The Era was the same establishment as the ily Delta, the name only having been changed.

n October, 1863, under the orders of the President of the United tes directing captured and abandoned property, not required for mili- y purposes, to be turned over by the military authorities to the spe- agents of the Treasury Department, General Banks's quartermas- Colonel Holabird, turned over this property to B. F. Flanders, cial agent of the Treasury Department, but on the 25th of October,

the then value of the materials exceeded or fell short of its amount when the establishment was turned over to them. By the report of this commission the amount of the claim of Messrs. Hills was reduced to $7,561.80.

Subsequently, on the 23d of November, 1864, an order was issued by General Hurlbut, the department commander who succeeded General Banks, appointing a board of survey to ascertain whether the Messrs. Hills owed anything to the government for rent of material in the newspaper and job office used by them during the period they had possession. This board of survey made a report to the effect that $1,950 was due on account of rent of such material.

It may be well to remark, in this connection, that the Messrs. Hills distinctly understood that no rent was to be charged for the use of the materials to be used by them, as the publication of a loyal newspaper in such a city and at such a time was deemed amply sufficient to compensate for the value of all materials so used.

General N. P. Banks makes the following statement concerning the claim of Messrs. Hills:

During the early part of the war there were several newspapers published in New Orleans, all hostile to the government, and very free in the expression of their views when it was thought to be safe. Several of these journals were suppressed. That left upon the hands of the government a considerable quantity of printing material, presses, &c. In February, 1863, Col. A. C. Hills, formerly of the New York Evening Post, and Mr. A. G. Hills, of the Boston Journal, desired to use some of these materials for the publication of a daily journal in support of the government. Such a paper was greatly needed for the publication of proclamations, circulars, military orders, and the news from different parts of the country, of great interest to the people, and constantly misrepresented by the Southern journals. The property was rightfully in possession of the military authorities, and could not have been properly used except by their consent. The use of these materials was accorded to these gentlemen for the purpose stated, and they published a very spirited and useful journal for more than a year. The materials they used and the building assigned to them were unoccupied and worthless to the government for any purpose whatever; they could not have been rented, except for speculative purposes, or with a view to opposition to the policy of the government, for any sum whatever. The enterprise they had undertaken was successful, and a considerable amount of printing material was added to the stock of government property during this period. The material added to the stock of type, &c., was indispensable to complete the equipment requisite for the publication of their journal; without these additions the material would have been worthless for newspaper purposes. In March, 1864, a disagreement occurring between the Messrs. Hills, I ordered them to turn the property over to Tracy and Fairfax, men employed in the office, and appointed a commission to settle their affairs. After a careful examination of all the property, the old and the new, the commission, composed of just and careful men, with a proper regard for the interests of the government, reported that the printing material added to the government stock had cost several thousand dollars; the exact amount will be shown in the report. In November, 1864, while I was in the North on leave of absence, a board of survey was appointed to ascertain what amount, if any, might be due from the contractors of the journal to the government for rent of property and building. This board reported that the sum of $1,950 was due from them. It was never my intention that any rent, either for material or building, should be charged to them or paid by them, as at the time they took the property it would have been worth nothing to anybody except for the purposes stated above. The property added to the printing material belonging to the government was purchased by them out of their own funds, and it belonged exclusively to them; they were not expected to account for and pay it over to the government, nor was the government under any obligation to make good any claims that might exist against them. They were to have all the profits and take all the chances of loss and gain, and be responsible for all losses. They were not agents of the government, but acting as owners, and as such, with all the rights of the latter. They were under no obligations to the government, except to return in good condition the property which was intrusted to them. They had the use of the material and the rent of the building free; beyond that the government was under no obligation to them whatever. Suit was afterwards brought by the successors of Hills & Hills against the supervising agent of the Treasury Department who dispossessed them of the property, in the court of the United States of the district of Louisiana, and decided in their favor after a full

the claimants, and report a substitute for the bills (H. R. 692 and 8
appropriating that amount, and recommend its passage.

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1256.

EMER G. ABBOTT.

MAY 12, 1882.—Laid on the table and ordered to be printed.

Mr. RANNEY, from the Committee on War Claims, submitted the following

REPORT:

The Committee on War Claims, to whom was referred the petition of Mrs. Emer G. Abbott, report as follows:

That the petitioner alleges a claim against the Government of the United States for saddlery and harness taken from her husband by the Army of the United States during the late war; claim stated at $2,000.

Claimant was the wife of D. M. Carter, who died in 1867. She married her present husband, Abbott, in 1871. Carter carried on the saddlery and harness business in Memphis, Tenn., during the war till some time in 1864, when it is alleged his shop was closed by military authority. He was charged with harboring rebel spies.

The petitioner, in December, 1871, filed a claim before the Commissioners of Claims. The Commissioners rejected the claim in 1876 for want of satisfactory proof of loyalty.

The committee, in view of the foregoing statement of facts, report adversely to the petition, and recommend that it do lie upon the table.

O

7TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1257.

CLAIMS OF CITIZENS OF MARION COUNTY, TENNESSEE.

MAY 12, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. RANNEY, from the Committee on War Claims, submitted the following

REPORT:

[To accompany bill H. R. 6183.]

The Committee on War Claims, to whom was referred the petition of certain citizens of Marion County, Tennessee, for the payment of awards made in their favor by a military board of claims, submit the following report and accompanying bill:

It appears from the records and evidence in reference to the subject matter thereof obtained from the War Department, and filed in this case, that Maj. Gen. George H. Thomas, commanding the Department of the Cumberland, on the 8th day of December, 1863, issued the following order, viz:

[Special Field Orders No. 329.—Extract.]

HEADQUARTERS, DEPARTMENT OF THE CUMBERLAND,
Chattanooga, December 8, 1863.

* * * * * * *

A board of commissioners consisting of the following named officers and citizens is hereby appointed for the purpose of adjusting the claims of the citizens of Marion County, Tennessee, against the United States Government for damages done their property in the occupation of said county by the United States troops.

Detail for the board.—Brig. Gen. James B. Steedman, U. S. V.; Colonel Post, Fifty-fourth Illinois Volunteers; Lieut. Col. I. P. Kerr, Seventh Illinois Volunteers; William Pryor, esq.; A. Kelly, esq.

The assistant adjutant-general of Brigadier-General Steedman will act as recorder.

The board will commence at Jasper, Tenn., December 10, at 9 a. m., or as soon thereafter as practicable.

By command of Major-General Thomas.

WM. M. MICHAEL,
Major and A. A. G.

Official.

This order was issued in pursuance of the policy of the government recognizing individuals who were public enemies by laws of war, by reason of their residence, as friendly to the government for the purpose of encouraging a loyal sentiment towards the Federal Government within the insurrectionary territory.

The docket of cases heard by and before this board, as shown by the records in the War Department was four hundred and seventy-three claims.

The petition and bill in this case embraces only fifty-three thereof, the rest presumably having been settled or disposed of by some other department of the government.

The hearing before the board commenced on the 10th day of December, 1863, and seems to have been concluded about the 15th day of April, 1864, and there was awarded for quartermaster stores and commissary supplies to the several persons included and named in the accompanying bill, the sums which the bill provides shall be paid to them respectively.

"Col. H. C. Gilbert, Nineteenth Michigan Infantry; Capt. John W. Moore, Twenty-third Missouri Infantry; Capt. Charles M. Hubbard, Nineteenth Michigan Infantry; Mr. Samuel L. Colville; Mr. James M. Thompson; Lieut. Henry A. Ford, Nineteenth Michigan Infantry, recorder.

"The board will meet at the call of the president.

"By command of Major-General Thomas.

"W. D. WHIPPLE,
"*Assistant Adjutant-General.*"

This order was issued in pursuance of the policy of the government recognizing individuals who were public enemies by laws of war by reason of their residence, as friendly to the government for the purpose of encouraging a sentiment of loyalty to the Federal Government within the insurrectionary territory.

Before any proceedings were had under the order, except the receipt of claims for adjudication, a supplementary order was issued as follws:

[Special Field Orders No. 81.—Extract.]

"HEADQUARTERS, DEPARTMENT OF THE CUMBERLAND,
"*Chattanooga, March* 21, 1864.

"XI. The following-named officers and citizens are relieved from further duty as members of the board of claims instituted by Par. XVI, S. F. O. No. 39 (C. S.), from these headquarters: Capt. J. W. Moore, Twenty-third Missouri Infantry; Lieut. H. A. Ford, Nineteenth Michigan Infantry; Mr. J. P. Thompson.

"XII. The following-named officers and citizens are detailed as members of the board of claims instituted by Par. XVI, S. F. O. No. 39 (C. S.), from these headquarters: Maj. E. A. Griffin, Nineteenth Michigan Infantry; Lieut. Leroy Cahill, Nineteenth Michigan Infantry; Dr. John B. Armstrong.

"By command of Major-General Thomas.

"W. D. WHIPPLE,
"*Assistant Adjutant-General.*"

The docket of cases heard by and before this board and the awards made therein, obtained from the War Department and filed as a part of this case, shows that there were filed with such board for hearing one hundred and ninety claims.

The hearing before the board commenced March 28, 1864, and seems to have been concluded April 18, 1864; and there was awarded for quartermaster stores and commissary supplies to the several persons included and named in this bill the sums which the bill provides shall be paid to them respectively.

The committee do not regard the payment of these awards as a question submitted to their decision upon the original facts on which the awards are based. They have been determined and allowed by a military board, called under the apparent sanction of the government, and whose action seems to have been approved not only by the major-general commanding, but by the War Department, and they have not been paid. The committee use the term "seem to have been approved," because the papers and record remaining in that department show no disapproval, which may be said to be a negative pregnant, almost as strong as affirmative proof.

This board was composed of officers in actual service, whose sympathies may not be suspected of leaning overmuch to the claimants. It held its sessions in the vicinage of the claimants, and its facilities for proof were better than any civil tribunal that has been constituted to hear such claims; and your committee think its findings are entitled to credit.

It may be said, in addition, the government afterwards furnished tribunals to hear this class of claims. These claimants, presumably relying on the awards made by this board, have not prosecuted their claims elsewhere, and statutes of limitations have run against them. But the committee do not care to rest the allowance on an estoppel *in pais* or anything analogous to it. They prefer to stand upon the awards made, as an adjudication of a court created by authority of the government to hear and adjudicate claims of individuals against it, and to hold such adjudications, not formally disapproved by the authority convening the court, as final.

But the committee find that the bill is incorrect and does not conform accurately to the awards made, and therefore report a substitute for the entire bill, and recommend the passage of the substitute.

[PRIVATE—No. 82.]

AN ACT directing the payment of certain awards in favor of parties therein named.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, directed to pay, out of any money in the Treasury not otherwise appropriated, to the following-named persons in the State of Tennessee the sums found to be due them by a court of claims

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1258.

JOHN M. HIGGINS.

MAY 12, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. GEDDES, from the Committee on War Claims, submitted the following

REPORT:

[To accompany bill H. R. 3411.]

The Committee on War Claims, to whom was referred the bill (H. R. 3411) for the relief of John M. Higgins, report as follows:

That the bill authorizes and directs the accounting officers of the Treasury Department to audit and pay to John M. Higgins, late a lieutenant of Company A, Thirty-third Regiment of Ohio Volunteer Infantry, his accounts against the government the same as if he had never been court-martialed and dismissed the service, but had been honorably discharged therefrom.

It appears from the proof submitted that this officer was mustered into service as second lieutenant, Company A, Thirty-third Ohio Volunteers, August 27, 1861, and is reported promoted to first lieutenant, same company and regiment. May 9, 1862; that he was tried by general court-martial and sentenced to be dismissed the service for absence without leave, with loss of all pay and allowances, which sentence was promulgated in General Orders No. 86, April 20, 1863, Department of the Cumberland; that application was made to the War Department in 1871 for such relief as could be granted in the case, and, thereupon, by direction of the President, the disability resulting from the dismissal was removed January 26, 1871.

The removal of the disability consequent upon the sentence did not operate to restore to Lieutenant Higgins the pay forfeited by the dismissal, but simply declared him qualified to re-enter the service in the future.

It is submitted that the nature of the offense and the severity of the sentence are such as appeal, certainly after this lapse of time, to the sense of justice in any impartial tribunal.

Your committee, therefore, in view of the foregoing statement of facts, report in favor of the passage of the bill.

O

TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1259.

JULIA A. NUTT.

AY 12, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

r. GEDDES, from the Committee on War Claims, submitted the following

REPORT:

[To accompany bill H. R. 849.]

e Committee on War Claims, to whom was referred the bill (H. R. 849) for the relief of Julia A. Nutt, widow and executrix of Haller Nutt, deceased, report as follows:

The facts out of which this claim for relief arises will be found stated Senate report of the Committee on Claims (No. 295), first session rty-seventh Congress, a copy of which is hereunto appended.

Your committee adopt the said report as their own, and report back e bill with the recommendation that it do pass.

Committee on Claims, to whom was referred the bill (S. 1472) for the relief of Julia A. Nutt, have considered the same, and make the following report:

This claim has been reported favorably on in the House of Representatives by the mmittee on War Claims—once on 14th February, 1877, once on May 1, 1878, and ain on 14th February, 1881. The last report, made by Mr. Tyler, is as follows:

[H. Report No. 251, Forty-sixth Congress, third session.]

Committee on War Claims, to whom was referred the bill (H. R. 1528) for the benefit of Julia A. Nutt, widow and executrix of Haller Nutt, deceased, submit the following report:

Julia A. Nutt is the widow and executrix of Haller Nutt, late of Adams County, in State of Mississippi, deceased, who was, at the commencement of the rebellion, a n of great wealth. He was the owner and in possession of several plantations, two them in Tensas Parish, in the State of Louisiana, called "Evergreen" and "Winter arters," and others in the State of Mississippi. The two plantations above named re heavily stocked with horses, mules, and cattle, and heavy crops were growing on them.

Mr. Nutt was always a firm advocate of the Union and opposed to secession. He s so well known as a Union man that the officers in command of the Union Army, luding General Grant, General Sheridan, General McPherson, General Gresham, d others, furnished him with safeguards for the protection of himself, his family, d his property. One of the papers in the case hereafter referred to bears the certeate of General Grant, of Mr. Nutt's unquestionable loyalty. The Commissioners of aims said, on this point:

"As to the loyalty of Mrs. Nutt and her deceased husband the proof is ample. Mrs. itt's own evidence was very clear and full to show the earnest Union feelings of rself and husband from the beginning of the war. General McKee, at present a ember of Congress from Vicksburg, says that he was in command of the Union rces which first entered Natchez in July, 1863, and that Mr. Nutt was the first man step forward and welcome them and to announce that he was a Union man. General McKee was afterward provost-marshal there; it was his duty to ascertain who ere loyal. General Grant, in indorsing the report of the commission, says: 'I am quainted with Mrs. Nutt. She has at all times been a loyal citizen of the United ates, as I had every reason to believe, as was also her husband up to the time of his ath.'"

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1260.

MATTHEW COOK.

MAY 12, 1882.—Laid on the table and ordered to be printed.

Mr. KLOTZ, from the Committee on the District of Columbia, submitted the following

REPORT:

The Committee on the District of Columbia, to whom was referred the petition of Matthew Cook, report the same back with the recommendation that the same do lie on the table, for the reasons set forth in the accompanying letters of the officers of the District of Columbia.

OFFICE OF THE COMMISSIONERS DISTRICT OF COLUMBIA,
Washington, April 28, 1882.

SIR: In response to the letter of the 17th inst., addressed to the Commissioners at your instance by the clerk of your committee, inclosing petition of Matthew Cook for relief from damages against lot 15, square 529, caused by change of grade, the Commissioners have the honor to state that they have caused the same to be investigated, and they inclose copies of reports.

There appears to be no special ground for complaint in this case, which in any event should have been presented to the board of audit.

The petition is herewith returned.

By order of the board.

Very respectfully,

THOS. P. MORGAN,
Acting President.

Hon. H. S. NEAL,
Chairman Committee on the District of Columbia, House of Representatives.

APRIL 24, 1882.

To the Engineer Commissioner, D. C.:

SIR: I have the honor to report lot 15, of square 529, is about 31 feet from the southwest corner of Third and H streets northwest. Third street was improved from G to I streets, and H street from Second to Fourth streets, and from the cross-sections, as shown by the maps of this office, the grade was only raised about 8 or 10 inches. The grade of the surrounding property, to lot 15, does not appear to have been changed from what it was under the old corporation.

The alley in the rear of lot 15, paved with cobble stones under the old corporation, has never been changed.

The property has been improved, instead of injured, by the improvement.

Very respectfully,

W. F. WALLACE,
Inspector, Engineer Department.

APRIL 24, 1882.

It does not appear from examination that this property has been injured by any change of grade.

The board of audit was constituted in 1874, with power to examine such claims and award damages. This applicant should have filed his claim with that board.

R. L. HOXIE,
Lieutenant Engineers, U. S. A.

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1261.

L. A. MORRIS.

MAY 12, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MANNING, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany bill H. R. 2158.]

The Committee on the Judiciary, to whom was referred the bill (H. R. 2158) for the relief of L. A. Morris, have considered the same, and make the following report:

T. A. Maxwell and L. A. Morris were sued in the district court of the United States for the northern district of Arkansas, on the 25th of September, 1875, as partners in trade under the firm-name of Maxwell & Morris, and John A. Fitch and John Dorchester as their sureties, to recover the penalty of the bond executed by said persons on —— of ——, 1875, upon the appointment of said Maxwell and Morris as traders in the Choctaw Nation. One provision of said bond is that—

> The principal shall faithfully conform to and observe all the laws and regulations made, or which shall be made, for the government of trade and intercourse with the Indian tribes.

The existing treaty between the United States and said tribe of Indians required said traders to obtain authority from the Choctaw Nation to sell or expose for sale goods in said nation in addition to the license granted by the United States. The breach alleged was that Maxwell & Morris failed to obtain such license from the Choctaw Nation.

It seems from the evidence submitted that said traders desired to do their duty in this respect, and to that end requested one George W. Ingalls, then agent of the five civilized tribes of Indians, to advise them as to what was incumbent upon them under the stipulation of said bond hereinbefore set out, and pursuant to his advice they obtained the signatures of several persons to a petition asking for the privilege of trading with the Indians, but did not present the same, as said agent (Ingalls) advised them that a formal permit issued by the nation was not necessary.

On the 11th of November, 1878, the suit was dismissed as to all defendants except L. A. Morris, and judgment was rendered against him for $5,000, the penalty of the bond.

The evidence on the trial showed that very soon after Maxwell & Morris opened their store it was closed by order of the authorities of said nation, and by reason of such order much damage resulted.

Your committee believe that L. A. Morris did not intend to violate his said bond, but that in good faith he acted according to the counsel

given by said Indian agent, not supposing that a breach would occur thereby.

The Judiciary Committee of the House of Representatives of the Forty-sixth Congress, second session (Report No. 1131), unanimously expressed the views contained in this report.

The committee recommend the passage of the bill.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1262.

LOUIS GROVERMAN.

MAY 12, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. GOLDSMITH W. HEWITT, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 2554.]

The Committee on Pensions, to whom was referred the bill (H. R. 2554) granting a pension to Louis Groverman, beg leave to report that they find, upon examination of the original papers on file in the Pension Office, that the petitioner was a private in Company C, First United States Infantry, in the war with Mexico; that he enlisted September 29, 1845, and was discharged July 10, 1849. His application for pension was filed May 16, 1876. The records of the War Department show him to have done duty up to August 24, 1846, when he is reported "absent, sick, at Camargo"; rolls for January and February, 1847, report him present, and subsequent rolls up to 1848, in August of which year he is reported "present, sick." The rolls for July and August report him discharged for disability July 10, 1849, at Ringgold Barracks, Texas. The certificate of disability on which he was discharged the service shows, over the signature of the officer who commanded the company, that he had been unfit for duty for forty-two days. The surgeon's certificate finds him "incapable of performing the duties of a soldier because of partial paralysis of the muscles of the thighs and entire paralysis of the muscles of the legs."

The evidence of comrades is presented showing him to be diseased in his legs in 1848, and that said disability was contracted in the service. On the 23d of October, 1876, the petitioner was ordered to an examination before a board of examining surgeons of the Pension Office in Washington City, for "disability resulting from varicose veins and heart disease." A description of his condition was given as follows:

> This man has varicose veins of both legs, slight of the right, but large and tortuous of the left, extending from the knee to the ankle. Has slight enlargement of the heart. Pulse variable, with an intermission every fifteen to twenty beats. Uses tobacco, but not to excess. He says, has no paralysis now. The condition of the veins of the legs cannot be attributable to paralysis, nor of the heart. We do not believe his condition is in any way due to the service.

This opinion, it will be noticed, was entirely gratuitous on the part of the board, and, considering the equities of the case, as well as the legality of the claim, is of little note, inasmuch as nearly thirty years had expired from the time of the contraction of the disability which he alleges was the origin of his present condition.

Your committee, after a thorough consideration of the case and the facts as presented, are of the opinion that this man contracted a disa-

bility while in the service in Mexico; that he was discharged laboring under that disability, and that his present condition, it is fair to presume, is a result of that disability. The lapse of time intervening since his discharge, and the consequent inability to procure evidence by the petitioner further than that he has already presented, and the record of the soldier's services prior to his being disabled for duty, warrant your committee in believing him to be properly entitled to the benefits of the pension laws. We therefore recommend favorable action upon the bill (H. R. 2554) granting a pension to Louis Groverman.

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1263.

RIVER AND HARBOR APPROPRIATION BILL.

MAY 13, 1882.—Recommitted to the Committee on Commerce and ordered to be printed.
JUNE 6, 1882.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. PAGE, from the Committee on Commerce submitted the following

REPORT:

[To accompany bill H. R. 6184.]

The Committee on Commerce beg leave to report to the House the accompanying bill "making appropriations for the construction, completion, repair, and preservation of certain works on rivers and harbors, and for other purposes," with the recommendation that it do pass, without amendment.

In making this recommendation the committee beg to state that they have been constantly engaged for the past four months in examining, with painstaking labor and care and thoroughness, all the estimates of the Engineer Department, supplemental and otherwise, and have been guided in their conclusions by the recommendations therein contained; that in their desire to do equal and exact justice to all parts of the country they have accorded hearings to all Senators, Representatives, and Delegates expressing a desire to be heard on any item or items appearing in the regular estimates, or in the Engineer's reports supplemental thereto; that they have also, for like reasons, granted hearings to the Mississippi River Commission, to delegations representing conventions, boards of trade and transportation, and chambers of commerce, and also, in certain cases, to Army engineers and State and city officials, and others, from all sections of the land; and that the resulting bill has been prepared with a view solely to the improvement of navigation in our navigable streams and harbors and the benefit of commerce. The bill reported appropriates in the aggregate $17,342,875, including $925,000 for the Missouri River, $4,923,000 for improving the Mississippi River, and $780,000 for other works on those two streams; the amount appropriated by the bill outside of the amounts appropriated for the Mississippi and Missouri Rivers being $10,714,875. For the improvement of the Mississippi River, from the head of the Passes up to Cairo, the bill appropriates all that the commission ask for, the committee believing that this is a work of such vast national importance and of such a peculiar and intricate character that the commission should not only be left entirely unhampered by conditions of any character whatsoever, but that it should also have abundant means for the completion of this great work at the earliest possible period.

The bill deals liberally with all such works as will largely and generally facilitate the commerce of the nation, by opening up the great waterways of the country to free navigation. The committee believe that at no time in the history of our government have the people so unanimously

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1264.

JAMES B. BEAVER.

MAY 13, 1882.—Laid on the table and ordered to be printed.

Mr. CHAPMAN, from the Committee on War Claims, submitted the following

REPORT:

The Committee on War Claims, to whom was referred the petition of James B. Beaver, report as follows:

That his claim is for the sum of $1,000, the alleged value of horses, cows, pigs, chickens, fencing destroyed, hay, and corn taken from him in Fairfax County, Virginia, by United States troops during the late war.

It appears from the proof submitted that a safeguard was issued to petitioner by the officer commanding United States troops in that vicinity. There is proof offered of certain fencing burnt by troops under command of General Blencker, and the fencing is appraised by three of his neighbors. The fencing was burned on March 11 and 12, 1862. No time is given of the taking of the horses, cows, hay, and other property of the petitioner, nor by whom taken; nor is any proof submitted of such taking, save the allegation of the petitioner.

The petitioner alleges that he was a Union man during the war, and there is proof that he voted against the ordinance of secession in Virginia. The petitioner is now seventy-three years of age, and dependent upon his friends for support; and is suffering from a cancer caused, as he alleges, by a blow received when the door of his house was burst open by Federal troops.

Your committee are clearly of the opinion if property of the petitioner was taken or destroyed, it was the act of marauders and entirely unauthorized by the officers in command, and it may be directly in violation of the safeguard granted him.

Your committee therefore report adversely to the petition, and recommend that it do lie upon the table.

'TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1265.

AGNES AND MARIA DE LEON.

AY 13, 1882.—Committed to the Committee of the Whole House and ordered to be printed.

[r. G. D. WISE, from the Committee on War Claims, submitted the following

REPORT:

[To accompany bill H. R. 3466.]

he Committee on War Claims, to whom was referred the bill (H. R. 3466) for the relief of Agnes and Maria de Leon, heirs-at-law of Rebecca L. de Leon, deceased, report as follows:

The facts out of which this claim for relief arises will be found stated House report of the Committee on War Claims, No. 42, third session rty-fifth Congress, a copy of which is hereto appended.

Your committee adopt the said report as their own, and report back e bill with the recommendation that it do pass.

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e Committee on War Claims, having had the bill "granting relief to Agnes and Maria le Leon, heirs of Rebecca L. de Leon, for rent of house by United States troops," under onsideration, report as follows:

Accounts in the Quartermaster-General's Office show that a house of seven rooms as rented from claimants, or their intestate, at Albuquerque, New Mexico, from gust 15, 1856, to September, 1861, at the rate of $56 per month, and occupied by sistant Surgeon Norris, quartermaster's store-rooms and office.

In October, 1861, a house of four rooms was occupied by Assistant Surgeon Baily d for store-rooms at $29 per month, and two rooms as store-rooms for medical stores $15 per month, until May 2, 1862. It is also shown that a nominal balance was en due for rent.

The report of a board of survey in the same office shows that it was appointed "to sess the damages upon the buildings which were rented and occupied to the 2d of arch, 1862; when a portion of these houses were destroyed," which they assessed at 50. The said damages, according to said report, were consequent upon the abanonment by the United States troops on the 2d of March, 1862, and their subsequent ccupation by the enemy; two rooms of the same building having been destroyed by rder of the assistant surgeon in charge of the hospital.

The committee further find that the actual cost of restoring said building to its former ondition was $1,000 and upwards; and that by reason of the damages to the house, nd the inability of the owners to repair it, there was a loss of two years', or more, ent entailed upon the owners. The rent of the rooms at the rate at which they were ented at the time of the burning, for the period of two years, would amount to $1,056. f, therefore, the government was required to make good the entire loss, that is the ost of restoring the property to the condition in which it was when they had possesion, and the loss of rent consequent upon the destruction of the property by the overnment, the amount would be $2,056. But the claimants only ask in their bill r the sum of $1,000.

There is no evidence of the time of duration of the lease of the property. The genal rule on the part of the government is to provide in the lease for its termination

at the will of the government. But, although such may have been one of tl visions of this lease, yet, when the government destroyed the property lease placing it beyond the power of the tenant to secure another tenant, the gover should, it seems to the committee, make good the rent during the time the pr by reason of the destruction, remained unoccupied; or, it should make good the a necessary to restore the property to its former condition, and in either event the a would reach the sum asked in the bill.

It is true the board of survey places the damages at $250, but the sworn stat of the claimants places the *actual expenditures* in repairing the property at $1,0 upwards. The committee think the sworn statement of *actual outlays* in repa the most reliable basis of calculation for reaching the amount which ought paid.

The committee, therefore, report the bill back to the House, and recomme passage.

7TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1266.

TITLE TO CERTAIN LANDS IN MICHIGAN.

MAY 16, 1882.—Referred to the House Calendar and ordered to be printed.

[r. TAYLOR, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany bill H. R. 6235.]

he Committee on the Judiciary, to whom was referred the bill (H. R. 3013), to confirm and declare legal certain acts of the Interior Department and its officers, having had the same under consideration, beg leave to make the following report:

That on the 3d day of June, 1856, an act of Congress was approved d became a law, by which was granted to the State of Michigan to l in the construction of a railroad from Ontonagon to the Wisconsin ate line, and also to aid in the construction of one from Marquette to e Wisconsin State line, and one from Marquette to Ontonagon, every ternate section of land being designated by odd numbers for six sections in width on each side of said road, and providing that in case it ould appear that the United States had sold any section or any part ereof so granted, when the lines or the routes of said roads should be finitely fixed, or that the right of pre-emption had attached thereto, at agents to be appointed by the governor of the State of Michigan ight select, subject to the approval of the Secretary of the Interior, on the lands of the United States nearest to the tiers of sections specied, as much land in alternate sections or parts of sections as should be qual to such lands as the United States had sold or appropriated, or which pre-emption rights had attached before the passage of the act: *rovided*, That the lands to be so located should in no case be further han fifteen miles from the lines of said roads and selected for and on ccount of each of said roads: *Provided further*, That the lands hereby ranted shall be exclusively applied in construction of that road for nd on account of which such lands are hereby granted, and shall be isposed of only as the work progresses, and the same shall be applied o no other purpose whatsoever.

Section second of the act provides that the remaining sections of land ot granted shall not be sold for less than double the minimum price of ublic land.

Section third and fourth we quote entire, and are as follows:

SEC. 3. *And be it further enacted*, That the said lands hereby granted to the said State hall be subject to the disposal of the legislature thereof, for the purpose aforesaid and o other; and the said railroads shall be and remain public highways for the use of the overment of the United States, free from toll or other charge upon the transportaon of any property or troops of the United States.

SEC. 4. *And be it further enacted*, That the lands hereby granted to said State shall

be disposed of by said State only in the manner following, th
of land not exceeding one hundred and twenty sections for
cluded within a continuous length of twenty miles of each
and when the governor of said State shall certify to the S
any twenty continuous miles of any of said roads is complete
land hereby granted, not to exceed one hundred and twent
roads having twenty continuous miles completed as afores
continuous length of twenty miles of each of such roads,
time to time until said roads are completed; and if said roa
ten years no further sales shall be made, and the lands unsol
States.

This act may be found in U. S. Statutes, vol. 11
15 of the "History of the Ontonagon & State
which compilation having been admitted by all
fore us to be a correct statement of facts, we shal
quently refer to.

On the 13th day of June, 1856, all the land w
to the operation of said act was withdrawn from

The Ontonagon and State Line Railroad Co
August 20, 1856. The Marquette and State L
was organized January 16, 1857.

Neither of these corporations surveyed any l
They were skeleton companies, organized to re
the State.

The grant of June 3, 1856, was duly accepted b
of the State of Michigan, February 14, 1857.—(*H*

On the 27th day of March, 1857, the Chicago,
du Lac Railroad Company, a corporation creat
the laws of Illinois and Wisconsin, was consolid
gon and State Line Company, as it had been pr
quette and State Line Company, retaining its o
consolidated company, on the 27th day of Nove
office of the Land Commissioner of the United
lines of railroad from Ontonagon and Marquet
Wisconsin State line (*Hist.* 30), which locations
cepted December 3, 1857, as to the Ontonagon
April 7, 1858, as to the Marquette and State Lin

All the property and franchises of the Chicago
du Lac Railroad Company, granted by the Unit
of Michigan, were sold on the 2d day of June, 18
gage executed by it, and the purchasers orga
under State law, under the name and style of t
western Railway Company.

It should be observed that the line of the road
State line was south of west, while that from O
line bears east of south; thus they converge an
tance, perhaps six miles, from the State line, an
or had but a single proposed location, and a certif
to both said corporations from the point of inters
was duly made and approved December 12, 1861
acres.

The Chicago and Northwestern Railway Com
build any part of either of said proposed railro
February, 1862, asked the board of control of ra
Michigan to bestow the grants it had receive
through it from the United States, upon the Pe
pany, a corporation duly organized under the la
construction of a railroad from Marquette to the

near the mouth of the Menominee River, and on the 24th day of April, 1862, said Peninsular Railroad Company presented to the board a written petition, asking for such action, and reciting that the grant to the Marquette and State Line Railroad Company by the State had been forfeited; on consideration whereof said board adopted the following preamble and resolution:

Whereas the grant of lands made to the State of Michigan by act of Congress approved June 3, 1856, to aid in the construction of a railroad from Marquette, on Lake Superior, to the Wisconsin State line, was heretofore conferred by the legislature of this State upon the Marquette and State Line Railroad Company, which company was afterwards, by authority of law, consolidated with the Chicago, Saint Paul and Fond du Lac Railroad Company, of Wisconsin, which last-named company became insolvent, and its property in Wisconsin was transferred to another company, and this board having, by authority of an act of the legislature of this State, approved March 4, 1861, authorized the transfer of said grant of lands so made for the purpose aforesaid, now conferred said lands, franchises, rights, powers, and privileges heretofore conferred upon the Marquette and State Line Railroad Company upon the Peninsular Railroad Company, a corporation duly organized under the laws of this State, who propose to relocate the route of said road, as contemplated by said last-mentioned act, and to make the southern terminus at the mouth of the Menominee River, on Green Bay, which is deemed more practicable than the route previously adopted:

Therefore resolved, That this board of control of railroad land grants for the State of Michigan do hereby recommend and request that Congress do authorize the relocation of the lands granted for the purposes of the line of road from Marquette to the Wisconsin State line, so as to conform to the new line that shall be surveyed and adopted by the said Peninsular Railroad Company, terminating at the mouth of the Menominee River, and to the same effect and extent as if such grant had been originally intended to embrace the route so designated, and the same had been originally conferred upon said Peninsular Railroad Company.

On the 5th day of July, 1862, Congress passed the following joint resolution:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the words "Wisconsin State Line," in the first section of an act entitled "An act making a grant of lands to the State of Michigan, in alternate sections, to aid in the construction of railroads in said State," approved June third, eighteen hundred and fifty-six, shall, without forfeiture to said State or its assigns of any rights or benefits under said act, or exemption from any of the conditions or obligations imposed thereby, be construed to authorize the location of the line of railroad provided for in said act from Marquette, on Lake Superior, to the Wisconsin State line, upon any eligible route from the township of Marquette aforesaid, to a point on the Wisconsin State line, near the mouth of the Menominee River, and touching at favorable points on Green Bay, with a view of securing a railroad, available for military purposes, from Green Bay to the waters of Lake Superior. And the line of railroad as now located, in pursuance of said act, from Marquette to the Wisconsin State line, according to the records of the General Land Office, is hereby authorized to be changed so as to conform to the route above indicated, which line, when surveyed, and the maps and plats thereof filed in the proper office, as required under said act of June third, eighteen hundred and fifty-six, shall confer the same rights upon and benefits to the State of Michigan and its assigns in said new line, as though the same had been originally located under said act.

And the following, being section five of the same:

SEC. 5. *And be it further resolved*, That upon the filing in the General Land Office of the lists of said railroad lands, in whole or in part, as now selected and certified in the General Land Office, with the certificate of the governor of the State of Michigan, under the seal of the State, that said State and its assigns surrender all claim to the land as aforesaid, set forth and described in the lists thereof thus certified, and that the same have never been pledged or sold or in anywise encumbered, then the State of Michigan or its assigns shall be entitled to receive a like quantity of land selected in like manner, upon the new line of road as thus surrendered upon the first line, and to the extent of six sections per mile in the aggregate for every mile of the new line, according to the general provisions of the act of June third, eighteen hundred and fifty-six. And it shall be the duty of the Commissioner of the General Land Office to reoffer for public sale, in the usual manner, the lands embraced in the lists of surrendered lands aforesaid, when duly filed in this office as herein directed.

Approved July 5, 1862.

The land on this last-named line, so authorized l
firmed to the Peninsular Railroad Company by th
on the 6th day of May, 1863, that company release
all the land granted to the Marquette and State
pany.—(*Hist.* 86.)

The Chicago and Northwestern Railway Comp
the Peninsular Railroad Company on the 21st day
taining its name.

The legislature of Michigan passed the followin
ruary 21, 1867:

Whereas, by act of Congress, approved June 3, 1856, ther
grants to this State, a grant of land to aid in the constr
Marquette to the Wisconsin State line;

And whereas, by joint resolution of Congress, approved
the route of said road was authorized, and in fact has been

And whereas the company have executed a release of s
Therefore,

Resolved by the Senate and House of Representatives of the
the governor be, and he is hereby, authorized to execute
non-encumbrance and surrender to the United States of the
of said railroad, required by said joint resolution.

Approved February 21, 1867.

On the 31st day of January, 1868, the Chicag
Railroad Company released to the State of Mich
those remaining unsold and unencumbered, and
governor of Michigan, released to the United State
those called the clear lands on the line of the Mar
road and the lands common to that road and the
Line road, the last being the alternate sections fr
section of the two roads to the terminus on the S

On filing this release in the Land Office at Wash
missioner required the further release of the land ou
gon and State Line road, which he writes in his l
"*will complete the whole matter*" (*Hist.* 110, 111), and t
and Northwestern Railroad Company executed a
of Michigan for the lands on the Ontonagon and S
113), and on the 14th day of August, 1870, after c
subject with the attorney-general of the State, G
cuted a release of said lands to the United States.

The number of acres so released by Governor C
Baldwin was 340,143.60 acres, and each release r
"shall be entitled to receive in lieu of the land sur
tity of lands selected in like manner upon the new
surrendered upon the first line, and to the extent c
in the aggregate for every mile of the new line acc
visions of the act of June 3, 1856."

Thereupon Michigan received by virtue of the jo
5, 1862, the same kind of title, subject to the sam
trications as were imposed by the grant of 1856,
land.

On the 29th day of May, 1873, the Land Comm
landsreleased to the United States by Governors
be restored to market, after thirty days' publicatio
was at once published and the lands so remain
July 30, 1873, when the order of restoration was s
pension was caused by a letter written by the G
(Bagley) July 10, 1873, by which he claimed tha

owner of the land granted by the act of 1856, lying on the route of the Ontonagon and State Line road and released by Governor Baldwin without authority, as Governor Bagley asserted.

The Ontonagon and Brulé River Railroad Company was organized September 9, 1880, and on the 17th day of the same month the board of control of railroad lands for the State of Michigan declared the grant of lands to the Ontonagon and State Line Railroad Company forfeited to the State, and vested it in the Ontonagon and Brulé River Railroad Company. This action was accepted by the latter-named company on the 28th day of September, 1880.—(*Hist.* 160.)

A bill was introduced into the Senate of the United States on the 27th day of January, 1881, to quiet the title of the lands involved in the bill under consideration. The two bills, as far as principle is concerned, are identical. On the 28th day of January, 1881, after considerable discussion and publicity and correspondence with the Interior Department, the Senate Committee on Public Lands reported to the Senate the bill with certain amendments, not changing its character, and recommended its passage. A like bill was at the same time introduced in the House. —(*Hist.* 165.) Congress adjourned without action on the bills, and on the 7th day of June, 1881, the legislature of Michigan passed an act confirming the act of the board before referred to, in favor of the Ontonagon and Brulé River Railroad Company.

Your committee have, so far, confined themselves to a statement of the history of the grant of 1856, and the action of the various railroad companies connected with it, in order to preserve the narrative unbroken, but it must now be stated that soon after the expiration of the ten years succeeding the passage of the act of 1856, the land officers of the United States commenced selling land and allowing pre-emption and other entries within this grant, and gave patents and certificates of entry to purchasers therefor (doubtless supposing that the lands had reverted under the terms of the act), and continued to do so till early in the year 1880.

The parties purchasing, pre-empting, and entering land have in many instances sold the land so obtained at advanced prices and their grantees have again sold.

On the 3d day of March, 1865, Congress granted to the State of Michigan 200,000 acres of land to aid in building a harbor and ship-canal at Portage Lake, to be selected by an agent of the State, "subject to the approval of the Secretary of the Interior, from any lands in the Upper Peninsula of said State subject to private entry: *Provided*, That said selections shall be made from alternate and odd-numbered sections of land nearest the location of said canal in said Upper Peninsula, not otherwise appropriated, and not from lands designated by the United States as 'mineral' before the passage of this act; nor from lands to which the right of pre-emption or homestead has attached."

Afterwards the grant was increased by the amount of 200,000 acres, and without limitation as to place of location (*Hist.* 201), and the legislature of Michigan accepted the grants and conferred them upon the Portage Lake and Lake Superior Ship Canal Company (a company organized under the laws of the State), and by the same law provided that the governor should inspect and determine whether the harbor and canal were constructed as required by the act and by the act of Congress, and that whenever he shall find that they have been so constructed, he shall certify the same to the company, and deposit a copy thereof in the office of the Secretary of State, &c., and further enacted that "when the governor shall make such certificate, and deliver the

same to said company, the said company shall stand seized and possessed of said lands as fully as the State can convey the same, free of any tax for the term of four years, if so long held by said company; and that said company may, after having received such certificate, sell and dispose of said lands as the absolute owner thereof."

Said harbor and ship-canal were constructed and completed by said company, and were on the 25th day of June, 1875, accepted by said governor, who gave and filed his certificate as contemplated by said law, and subsequently the land was selected by the State of Michigan, by its agent, who was also president of said ship-canal company, and a considerable quantity so selected was the identical land covered by the grant of 1856, lying on each side of the located line of the Ontonagon & State Line Railroad, within the six and fifteen mile limits, and being the odd-numbered sections, and being also in part some of the lands now claimed by the Ontonagon and Brulé River Railroad Company. These selections were all made a considerable time before the Ontonagon and Brulé River Railroad Company was organized.

The ship-canal company executed a mortgage upon said lands, under which they were sold at public sale, and are now held by parties (or their grantees) who purchased at such sale without actual notice of any outstanding title, or of the fact that the land had been, or ought to have been, withdrawn from the market, and who bought in good faith before the organization of the Ontonagon and Brulé River Railroad Company.

After that company had obtained whatever title the facts herein recited gave it to lands along its route, it built twenty miles of the northern end of its line, commencing in the fall of 1881 and completing it in the early part of the year 1882, and claims the right to select the land claimed by the several classes of purchasers herein described, lying on the extreme southern end of the line.

On the 8th day of February, 1882, the governor accepted the twenty miles of the road built, and on the 11th day of February, 1882, the Ontonagon and Brulé River Railroad Company selected 120 sections within the six miles limits, on the south end of the line, a certificate of which selection was filed in the office of the secretary of state of Michigan on the 18th day of February, 1882. On the 20th of February, 1882, said secretary of state filed in the Interior Department a certificate of such selection, with a list of the land, and on the 24th of February the governor of Michigan certified to the Interior Department the completion of the said twenty miles of road.

There is abundant land subject to such selection along the line of the road not claimed by any one.

From the evidence it seems clear that the purchasers of the various classes described had no actual knowledge of any defect in the title which they acquired, nor that the lands nor any part thereof were out of market till long after they purchased. They have, in some instances, made considerable improvements, and have ever since the purchase paid taxes to the State, and the lands are very valuable on account of the timber they bear and the minerals they contain.

It is evident from these facts that a very serious conflict exists between the purchasers of the various classes and the Ontonagon and Brulé River Railroad Company, presenting no serious, if any at all, disputes of fact, but graver ones of law.

Congress is asked in this bill to confirm and quiet the title of the purchasers, and, so far, forfeit the grant of 1856, while the railroad company denies the power of Congress to so do, and exclaims against the injustice of the proposed measure.

Whatever may have been the earlier opinion upon the subject, it must be regarded as settled that the State of Michigan took, by the act of 1856, an estate *in præsenti*, to which was attached the condition subsequent, created by the last clause of the fourth section of the act, to wit:

And if any of said roads are not completed within ten years no further sales shall be made, and the lands unsold shall revert to the United States.

Schulenburg *vs.* Harriman (21 Wallace, 149) treats the clause of the act quoted as analogous to a condition subsequent created by private grant or deed; the same authority justifies the conclusion that the title does not revert till the United States asserts and enforces the right of forfeiture by legislation or judicial action.

The condition subsequent being broken, however, the grantor in a private grant—government in this case—may re enter, unless the right has been waived, either voluntarily or by laches.

The United States has at no time waived expressly its right to forfeit the grant; it has only delayed the asserting of the right; and it is difficult to see how the party in default can complain of this delay, for the road is still unbuilt, and the particular lands affected by this bill are unsold, except so far as it may be urged that the building of any twenty miles of the road gives a right to select lands on any other twenty miles of its line.

Mere indulgence is never to be construed into a waiver of a breach of condition. (Gray *vs.* Blanchard, 8 Pick., 284.)

The government had no agent with authority to waive the breach of the condition but Congress, and it never acted in that direction.

The United States was not and could not have been guilty of laches. Mr. Justice Story, delivering the opinion of the Supreme Court in United States *vs.* Kirkpatrick (9 Wheat.), says: "The general principle is that laches are not imputable to the government."

The Supreme Court confirmed that decision in United States *vs.* Van Zandt. (11 Wheat., 184; 7 Otto, 584; 8 Otto, 489.)

The United States may, as your committee think, without doubt forfeit the grant and re-enter, so far as Michigan is concerned. That State accepted the grant with the condition fully expressed that if the road was not built in ten years *no further sales should be made, and the lands unsold should revert to the United States.* After ten years had expired whatever the State did was done subject to the right of the United States to assert its right of forfeiture and with full knowledge of the extent of that right, and the Ontonagon and Brulé River Railroad Company having knowledge of all the existing facts, when it received its title and built its road so far as it is built, stands in no better or stronger position than the State of Michigan does, nor would it, we apprehend, had it been a purchaser in good faith without actual knowledge of the condition attached to its grantor's title, or of the intervening rights of other parties as to the question of legal title, however much good faith and want of notice might strengthen the equitable claim and induce a decision to afford it protection.

The forfeiture, when accomplished, in whatever way it is done, and by whomsoever, for the breach of a condition subsequent, must of necessity and from the nature of the title relate back to the moment the right of forfeiture accrued.

The grantee of an estate in fee subject to a condition subsequent—that is, of an estate liable to terminate and become no estate on the happening or non-happening of some event in the future—cannot, by sale or en-

ject to a condition by which the title might revert to the United States, but to remain in the State until the forfeiture should be asserted, but only in trust for the purposes expressed in the law, and inasmuch as the only use or purpose the State could put the land to under the condition of its title was to sell it to railroad companies or for them as they constructed railroads, it might be conceived that the power to sell remained after the right of forfeiture attached until the forfeiture should be declared, and if it does so to the extent of conveying a title free from the condition subsequent attached to the grant, it is certain that the words "no further sales shall be made" are wholly inoperative.

The case of Schulenberg *vs.* Harriman was one brought by the State of Wisconsin against a mere tresspasser, for cutting and carrying away timber from lands granted to that State by a law similar in its terms to the one now under consideration, after the ten years had expired, and before any declaration of forfeiture. The court held that the grant gave the State an estate *in præsenti*, and that the land did not revert to the United States till action to that end had been taken by legislation or judicial proceeding. The right of the State to sell before or after the right of forfeiture occurred was not, as we can see, necessary to the dis position of the case or involved in it, nor does it seem to have been discussed by counsel or considered by the court; all remarks therefore upon that subject appearing in the opinion of the court in that case are *obiter dicta*, and are not authority.

Our respect for the Supreme Court and for the learned judge delivering the opinion of the court is such that we do not feel like passing by without consideration the statement hereinbefore quoted from the case referred to.

If we regarded the statement as involved in and the law of the case of Schulenberg *vs.* Harriman, we should accept it as the highest law of the land, while now we respectfully examine the basis upon which it rests.

The Supreme Court, in 7 Otto, 497, say:

> It is always to be borne in mind, in construing a Congressional grant, that the act by which it is made is a law as well as a conveyance, and that such effect must be given to it as will carry out the intent of Congress.

The language is repeated in Hall *vs.* Russell, 11 Otto, 509.

Again, in Allen *vs.* Louisiana, 13 Otto, 84, 85, the court say:

> In the construction of a statute every word is, if possible, to be given some effect. Nothing is to be stricken out if it can be avoided. It is not presumed that the legislature intended any part to be without meaning.

With this rule of construction before us, we turn to the statute of 1856, and after noticing the various provisions it contains, we read, "and if said roads are not completed within ten years no further sales shall be made, and the lands unsold shall revert to the United States."

The object of the law was to aid in building railroads, but it had a further object as to the location of the roads, and a still further one as to time when they should be built. Each of these objects was reasonable, legitimate, and well defined, and the grant was certain and definite as to each, as much so in respect to one as to another.

There seems to us to be no difficulty in giving effect to every word in this statute, and that it is the duty of every one called upon to construe it to give such effect to its language. When Congress enacted that after ten years no more land should be sold, it did not use idle or unnecessary language, and most certainly it did not use words of opposite meaning from what it intended. The plain meaning was that, after ten

even exchange as to quantity, such exchange would include the surrender of the lands on the Ontonagon line as well as on the other. That this was the intent is evident from the sequel. Governor Crapo executed the proposed release and certificate, conforming them to the language of the resolutions, excepting possibly so far as he released the common lands of both roads. On filing the surrender and certificate the Land Commissioner refused to accept it as a full compliance with the understanding, and demanded a like surrender of the Ontonagon lands in his letter of July 13, 1868, saying that when that is done it "will complete the whole matter." This letter was directed to Governor Baldwin, who submitted the matter to the Hon. Dwight May, attorney-general of the State, who replied February 10, 1870, among other things, saying: "It seems to be just what the law contemplates."—(*Hist.* 117.) After the release hereinbefore referred to by the Chicago and Northwestern Railroad Company to the Ontonagon lands, that release and one prepared for the governor to execute to the United States was submitted to Mr. May, he still being attorney-general, and who on the 29th day of July, 1870, reported by letter to the governor that he had examined both releases, and said:

> These acts (referring to those of 1856, 1862, and 1865), taken together with the legislation of the State upon the subject of the original grant, clearly indicate the necessity of such a release, which in form and substance I deem correct.—(*Hist.* 118.)

It cannot be conceived that these officers were ignorant of the terms of the resolutions of 1862, or of that of the legislature of Michigan passed February 21, 1867, or of their legal effect; nor should it be said that, knowing the governor had no authority to so release, but understanding that the Land Commissioner thought he had, the release was executed to mislead and deceive. It is fairer to regard the release to have been made in the execution of a then well-known agreement, and in the recognized discharge of an obligation. At all events, on filling the surrender at Washington the State of Michigan became possessed of more than 390,000 acres of land, being 50,000 acres more than it surrendered, and without this action of the governor the land could not have been obtained. We hear no more of the title of the State of Michigan to the Ontonagon lands till the 10th of July, 1873, when the then governor, John J. Bagley, set up for the State of Michigan a claim to them in a letter to Hon. Columbus Delano, in which he says his predecessor, Governor Baldwin, "surrendered these lands contrary, in his opinion, to law, in deference to the demands of the General Land Office." In his letter the governor hints to decisions of the Supreme Court, probably referring to the not always well remembered law that the United States does not take title to lands by the delivery of a deed, but Congressional action is requisite in the acceptance of a grant.

It is difficult to discover any equity in either the State of Michigan or in the Ontonagon and Brulé River Railroad Company to the lands granted to the State of Michigan in aid of the Ontonagon and State Line Railroad Company.

It is also true of the purchasers of lands comprised in the original grant that, according to the interpretation of the law by the Supreme Court, no matter what the forms of their title papers may be, such title will not stand the test of a court of law, but inasmuch as their purchases, entries, and pre-emptions were made without actual notice of any want of power on the part of the United States to convey, and inasmuch as they have paid their money, relying upon the ability of the government to give that which they paid for, they have strong equita-

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1267.

PUNISHMENT OF ACCESSORIES AFTER THE FACT.

MAY 16, 1882.—Referred to the House Calendar and ordered to be printed.

Mr. TAYLOR, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany bill H. R. 1683.]

The Committee on the Judiciary, to whom was referred the bill H. R. 1683, *submit the following report:*

That the object of this bill is to provide for trying accessories after the fact to murder, robbery, piracy, mail robbery, and certain other offenses before the trial or conviction of the principal offender when the latter has escaped. The necessity of the law proposed is great in some parts of the country where mail and railroad robberies are looked upon as bold adventures rather than as crimes, and find more or less sympathy among the inhabitants, too many of whom are willing to assist the perpetrators to escape, and to share in the avails of the lawless acts.

Your committee recommend the passage of the bill, with an amendment, inserting the words "fled or" after the word "has" in line 9.

O

TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1268.

BRIBERY OF WITNESSES.

MAY 16, 1882.—Referred to the House Calendar and ordered to be printed.

r. TAYLOR, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany bill H. R. 1684.]

e Committee on the Judiciary, to whom was referred the bill H. R. 1684, *report:*

That the object of the bill is clearly manifest in the bill itself, and ere being no law of like character on the statute books, it seems ob- ous that the bill ought to pass; and your committee so recommend.

O

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1269.

BRIBERY OF JURORS.

MAY 16, 1882.—Referred to the House Calendar and ordered to be printed.

Mr. TAYLOR, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany bill H. R. 1685.]

The Committee on the Judiciary, to whom was referred the bill H. R. 1685, *report:*

That in addition to existing laws in reference to corrupting or influencing jurors (see sections 5404 and 5405, Rev. Stat.) there should be more specific enactments in relation to bribing, or attempting to bribe, jurors, and to receiving bribes by jurors.

Your committee propose to amend the bill as follows: Insert after the word "juror," in the eighth line of the first section, the words "or person who afterwards becomes a juror"; and after the word "juror," in the eleventh line of the same section, the words "or person"; and after the word "juror," in the first line of the second section, the words "or person who afterwards becomes a juror;" and as amended recommend the passage of the bill.

O

'TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1270.

CONCEALMENT OF CERTAIN CRIMES.

MAY 16, 1882.—Referred to the House Calendar and ordered to be printed.

:r. TAYLOR, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany bill H. R. 1686.]

'he Committee on the Judiciary, to whom was referred the bill H. R. 1686, report:

That the object of the bill is solely to correct an error in printing sec-on 5390 of the Revised Statutes, and to restore the section to the form ı which it passed Congress. An inspection of the statute will show ıe necessity of passing the bill, and the committee recommend its assage.

O

7TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1271.

O QUIET TITLE TO CERTAIN LANDS IN WASHINGTON, D. C.

MAY 16, 1882.—Referred to the House Calendar and ordered to be printed.

r. URNER, from the Committee on the District of Columbia, submitted the following

REPORT:

[To accompany bill H. R. 2402.]

he Committee on the District of Columbia, to whom was referred the bill (H. R. 2402) to quiet title to certain lands in Washington, D. C., respectfully report:

That they have considered said bill, and find from the testimony subitted that the land mentioned in the bill was the property of Robert rent, who in 1819 was Paymaster-General of the United States Army. pon the settlement of his accounts he was found to be largely indebted the government, and to secure the payment of his indebtedness to e United States he made an assignment of all of his property, includg the land in question, to George Graham, Joseph Pearson, and Robt Y. Brent, jr., as trustees, in trust to sell the same and pay the proeds to the United States. He also executed a will, in which he named e same persons as trustees, with somewhat similar trusts.

After the death of said Brent the United States instituted proceedgs in equity to enforce the trusts of said deed, and a decree was assed appointing said Graham, Pearson, and Brent, jr., trustees to sell id property.

On the 1st of May, 1882, Joseph Pearson and Robert Y. Brent, the rviving trustees, sold said property at public auction, at which sale Mauro acted as auctioneer.

On the 18th of June, 1823, the said surviving trustees reported said les to the court, and accompanied their report with a list of the propty sold, in which it appears that squares 710, 711, 672, 670, 671, and large quantity of other land, was sold to Stephen Pleasanton, and in e report the trustees say:

That the portion of the said property which appears to have been struck off to Stehen Pleasanton was purchased by him, the said Pleasanton, for the use of the United tates.

An order *nisi* was passed upon said report on the 18th of June, 1823, ut nothing further appears to have been done until the year 1849, when, n the 23d day of May, an order was passed by the court to this effect:

That the sales reported by the trustees in this cause to Stephen Pleasanton, agent the complainants (the United States), be and the same are hereby ratified and contmed, and the surviving trustee, Robert Y. Brent, is hereby directed to convey the roperty so sold to the said complainants or their assigns.

done in the case until the 15th day of December, 1857, when another order was passed by the court, as follows:

Ordered and decreed, that the sale heretofore reported by the trustees in this cause to Joseph Gales, jr., be, and the same is hereby, ratified and confirmed, and it is further ordered that Philip Barton Key be, and he is hereby, appointed trustee to convey the said property to the purchaser, and also to convey to the respective purchasers referred to in the order passed on the 23d of May, 1849, the respective parcels of land therein referred to, the trustee, Robert Y. Brent, mentioned in said order, having departed this life without executing such conveyances.

On the 24th of March, A. D. 1858, Philip Barton Key, as trustee, executed a deed of all said land, besides numerous other tracts bought by said Pleasanton as agent of the United States, to the United States. It would seem that this deed was prepared from the report of sales and the schedule attached thereto, and the conveyancer had no knowledge of any agreements with reference to or any disposition of any of the property other than what the report disclosed, and actually conveyed to the United States other lots besides those in question to which the United States were not entitled. Solicitor Hillyer, in a letter dated May 11, 1859, says:

I take the occasion to say, in my opinion, Mr. Key made a mistake in including in the deed to the United States the lots above described in square No. 327, &c.

By the deed of Key the legal title to the squares in question became vested in the United States, where it now is; but it is claimed by the parties for whose relief the legislation sought is desired, that while the sale of said land by the trustees was nominally made to Stephen Pleasanton as agent of the United States, yet so far as the land in question was concerned, viz, squares 670, 671, 672, 710, and 711, that was in truth bought for Joseph Pearson, who, being one of the trustees, could not legally buy at his own sale. In support of this claim the following additional testimony has been produced:

1st. A memorandum of P. Mauro, auctioneer, made at the time of the sale, to wit, May 1, 1822, which is as follows:

Square 551, lots 10, 11, 12, Mr. Pleasanton, 30,327, at 2 mills per square foot.	$60 65
Half of square 710 and 711 & mill, 255, 282 square feet, to Mr. Pleasanton..	3,000 00
Half of square 710 and 711, 255, 282 square feet, at 2¼ mills, Pleasanton..	702 02½
Square No. 672, 386,000 square feet, 2 mills, sold to Mr. Pleasanton	772 00
Square No. 670, containing 100,370 square feet, at 2½ mills, sold to Mr. Pleasanton.....	250 92½
Square No. 671, containing 98,030 square feet, at 2 mills, sold to Mr. Pleasanton.....	196 06
	2,281 66½

Sold at public auction May 1, 1822, the real property belonging to the estate of Robert Brent, by P. Mauro, auctioneer.

(On the margin:) "This for Mr. Jos. Pearson."

2d. Additional memorandum and certificate from P. Mauro, auctioneer, as follows:

Jos. Pearson bot. at auction May 1, 1822, the following property belonging to the estate of the late R. Brent, esq., deceased:

Sqr. 551, lots 10, 11, & 12, 30,327 sq. ft., @ 2 ms	$60 65½
Half of square 710 & 711, 255,282	3,000 00
" " " " 255,282, 2¼ ms	702 02½
Square No. 672, 386,000, 2 ms	772 00
" 670, 100,370, 2½ ms	250 92½
" 671, 98,030, 2 ms	196 06
	4,881 66½

The above is a true copy from the original record, July 3, 1835.

P. MAURO, *Auct'r.*

3d. Letter from Thomas Swann, attorney for the United States, to S. Pleasanton, dated October 21, 1823, of which the following is a copy:

WASHINGTON, D. C., *October* 21, 1823.

SIR: In the sales of the property of Mr. Brent, I understand that the mill and back property attached to it was reported to have been sold to you, with a view that it should be conveyed to you, and by you to Mr. Pearson, who is the real purchaser.

Mr. Pearson informs me that you do not wish your name to be used in this matter, but at the same time you are content that the sales should stand for the benefit of Mr. Pearson. If you should be willing that the sales should stand, you might direct the conveyance to be made to any person that Mr. Pearson might direct, and the title in that way might, I presume, be made safe as to him, or if you should prefer it, a resale might be made of the property.

I am, with very great respect, your obedient servant,

THO. SWANN.

To S. PLEASANTON, Esq,
Washington.

4th. An unexecuted deed, now on file in solicitor's office of Treasury Department, prepared by Hon. Walter S. Cox, now associate justice of the District of Columbia, together with a letter from Judge Cox to Hon. John C. Clarke, solicitor, requesting the execution of the deed, dated September 14, 1850. The following is a copy of the deed prepared by Judge Cox, as also his letter:

This indenture made this —— day of ——, in the year one thousand eight hundred and fifty, between Robert Y. Brent, surviving trustee of the will of Robert Brent, deceased, of the first part, John C. Clarke, Solicitor of the Treasury of the United States of the second part, and Catherine Pearson, Eliza Pearson, Josephine Jay, and Gaston Pearson of the third part, witnesseth:

Whereas at a public sale of property of the late Robert Brent, the hereinafter described property was purchased in the name of S. Pleasanton, agent of the United States, but in fact for Joseph Pearson, one of the trustees of Robert Brent, aforesaid, and since deceased, and the parties of the third part hereto are the heirs at law and devisees of said Joseph Pearson, and as such are entitled to a conveyance of the premises aforesaid, in evidence whereof the said John C. Clarke will affix his signature hereto: Now, therefore,

This indenture witnesseth that the party of the first part, for and in consideration of the premises and the sum of one dollar to him in hand paid by the parties of the third part before the ensealing and delivery of these presents, receipt of which sum of money is hereby acknowledged, hath bargained, sold, transferred and conveyed and doth by these presents bargain, sell, transfer, and convey unto the said parties of the third part, their heirs and assigns, all those pieces of grounds situate and lying in the city of Washington, in the county aforesaid, and described as follows, viz:

Lots Nos. ten (10) eleven (11), and twelve (12), in square No. five hundred and fifty-one (551); also, squares Nos. six hundred and seventy (670), six hundred and seventy-one (671), six hundred and seventy-two (672), seven hundred and ten (810), and seven hundred and eleven (711), with the improvements and appurtenances, to have and to hold the same unto and for the only use and behoof of the said parties of the third part, their heirs and assigns, according to their respective rights at law and under the last will and testament of Joseph Pearson aforesaid.

In testimony whereof the said Robert Y. Brent and for the object aforesaid, the said John C. Clarke have hereunto set their hands and seals on the day and year first hereinbefore written.

——— ———. [SEAL.]
——— ———. [SEAL.]

Signed, sealed, & delivered in our presence:

——— ———.
——— ———.

DISTRICT OF COLUMBIA,
County of Washington, ss:

On this —— day of ——— 1850, before the subscribers, two of the justices of the peace in and for the county aforesaid, personally appears Robert Y. Brent, party of the aforegoing indenture and acknowledges the same to be his act and deed.

——— ———.

Hon. JOHN C. CLARKE, *Solicitor:*

SIR: At a public sale many years ago of Robert Brent's property, some lots and squares were purchased by S. Pleasanton in the name of the United States, but in fact

for Jos. Pearson, one of Robert Brent's trustees, who could not therefore bid himself, but was to account to the United States as a purchaser. He neglected to get a conveyance in his life-time, and his heirs and devisees are now desirous of procuring one. The legal title remains in the surviving trustee, Robert Y. Brent, who, because the property was struck off to Mr. Pleasanton, desires to have the authority of the United States to convey. I presume Mr. Pearson has fully paid up, or that what remained due from him would be covered by his commissions as trustee. This I suppose can be ascertained in your office, and, if there be no obstacle, will be much obliged if you will sign the inclosed deed authorizing Mr. Brent to convey.

Very respectfully, your obedient servant,

WALTER S. COX.

GEORGETOWN, *September* 14, 1850.

(Note on the back:) I have a distinct recollection that this claim of Mr. Pearson was looked into by J. C. Clark, solicitor, and afterwards by his successor, Mr. Comstock, and both declined to sign the deed as requested. It was afterwards examined by Mr. Streeter, who also declined to sign it, but my recollection is that after hearing the agent of Mr. Pearson, he wrote an informal, unofficial opinion, which he desired to leave on file among the papers; but I do not find it among them. I think, however, a copy was given to the agent of Mrs. P.

B. F. PLEASANTS.

APRIL 22, 1859.

5th. A paper filed by T. B. Streeter, Solicitor of the Treasury, dated May 22, 1857, addressed to the clerk of the land docket. This paper is not signed by Mr. Streeter, but was filed by him, and intended to be official, as is clearly evidenced by the fact that he gave a copy of the same to William Gaston Pierson, esq., which he indorsed in his own handwriting as follows:

SIR: I return you the papers relative to the Brent lots, with a copy of order to the land docket clerk to make the proper entries. This paper will be placed on file, which will prevent any misapprehension hereafter.

Very truly, &c.,

T. B. STREETER.

TO WM. GASTON PIERSON, Esq.
MAY 22, 1857.

The following is a copy of the solicitor's order:

SOLICITOR'S OFFICE, *May* 22, 1857.

The following lands, situated in the city of Washington, to wit: Square number seven hundred and ten (710), seven hundred and eleven (711), six hundred and seventy (670), six hundred and seventy-one (671), and six hundred and seventy-two (672), appears on the land book of this office to have been purchased by Stephen Pleasanton, ag't of the Treasury, at a sale by the trustees of Robert Brent, dec'd. No conveyance was made to the United States, but under a decree of the circuit court of the 23rd day of May, 1849, directing the surviving trustee to convey to the U. S., or their assigns, the above mentioned lands were conveyed to the devisees of Joseph Pearson; dec'd.

From the statements of Stephen Pleasanton and the memoranda of the auctioneer, it is manifest that Joseph Pearson was considered to be the purchaser of the lots, and the deed made by the surviving trustee, under the decree of the court, to the devisees of Joseph Pearson was, in my opinion, properly made, though no written assignment from Pleasanton to Pearson is to be found. From the investigation I have given of the matter, I am satisfied that the U. S. have no interest in these lands, and entries should be made upon the land book in accordance with the facts. (No signature.)

———, *Solicitor.*

TO the CLERK OF THE LAND DOCK.

The committee are assured that squares 670, 671, 672, 710, and 711 have been in possession of Joseph Pearson and those claiming under him ever since the sale in 1822, for a period of sixty years, who have paid the taxes on the same, and the United States has never made any claim to the property or exercised any acts of ownership over it prior to 1881.

The following is a copy of a note made upon a tax bill for 1833 by Joseph Pearson:

caused a full and complete abstract of the title to be made, and find that, according to the record, it is in the United States, notwithstanding the conveyance by Robert Y. Brent, trustee, under date September 13, 1850, to Catherine Pearson *et al.*, heirs at law and devisees of Joseph Pearson, deceased.

I am, however, informed by persons in position to be well informed upon the subject, that the heirs and devisees of Pearson have an equitable claim to the property; that Pearson's commissions as trustee for the sale of the property were never paid in money, and that it was understood and agreed among all parties in interest in the equity suit of United States *vs.* Brent, in which the sale was made, that Pearson should take the property in question, in lieu of money, in satisfaction of his commissions as trustee. There is nothing in the records to show this fact, but such is the tradition concerning the matter.

House bill No. 2402, now pending, provides that the United States, through the Secretary of the Treasury, shall quit claim to the devisees of Catherine Pearson (the widow of Joseph) all the right, title, and interest of the United States in the property in question, and I have been called upon by the subcommittee of the Committee on the District of Columbia of the House of Representatives for an expression of opinion as to the propriety of passing this bill.

In view of the fact that I have your written directions to enter suit with a view to removing the cloud on the title of the United States, I have declined to express any opinion in the premises, and I now submit the matter to you and await such further instructions as you may see fit to give me.

Very respectfully,

GEORGE B. CORKHILL,
United States Attorney, District Columbia.

Hon. KENNETH RAYNER,
Solicitor of the Treasury.

The following is a letter from Hon. George B. Corkhill, United States attorney, suggesting certain amendments to the bill:

OFFICE OF UNITED STATES ATTORNEY,
DISTRICT OF COLUMBIA,
Washington D. C., April 27, 1882.

SIR: I have the honor to acknowledge the receipt of your letter of the 11th instant, concerning the title of the United States to the property mentioned in bill H. R. 2402. I reply I beg to say:

1st. That I have not yet taken any legal steps to remove the cloud upon the title to said property and affirm the same in the United States, and shall not do so until I receive further instructions from the Solicitor of the Treasury, for reasons set out in my letter to the Solicitor of even date herewith, a copy of which I inclose.

2d. Inasmuch as in this matter I must act under the direction of the Solicitor of the Treasury, I must respectfully decline to express any opinion as to the propriety of the passage of bill H. R. 2402; but will suggest that if the bill be passed, the *proviso* should be amended as indicated in the copy of the bill which I inclose herewith, so as to provide that the United States shall be reimbursed for all expenditures made in relation to the land in question; and also that the bill should provide for a quit-claim to the heirs and devisees of *Joseph* instead of *Catharine* Pearson.

Very respectfully,

GEORGE B. CORKHILL,
United States Attorney, D. C.

Hon. MILTON G. URNER, M. C.,
Chairman Subcommittee on Judiciary of Committee on District of Columbia.

The bill (H. R. 2402) referred to the committee has reference to squares 671, 672, 710, and 711. These lots are claimed by the devisees of Catharine Pearson, deceased.

The committee have also had under consideration the petition of Augustus Jay, who claims to be the eq uitable owner of square 670. The evidence hereinbefore referred to applies equally to square 670 as it does to the other lots, and by amending bill H. R. 2402, as suggested by Mr. Corkhill, so as to quit-claim and release unto the heirs and devisees of Joseph Pearson, deceased, their heirs and assigns, and then further amend the bill so as to include square 670, all the relief to which the parties are entitled can be granted in one act.

The committee are of opinion that the testimony clearly proves

that squares 670, 671, 672, 710, and 711 were pu
ton for Joseph Pearson, who claimed the land
whole of his life-time, paying taxes thereon; th
owner thereof, and while the legal title is in the
government has no equitable claim to the prope
claim and release the same to those who are the

The committee therefore report back said bi
following proposed amendments, and recommen
amended:

In line 4, before the word "devisees," insert t
the word "devisees" insert the words *and assig*

In line 5, strike out the word "Catharine" an
in the place thereof.

In line 7, after the word "squares," insert the
seventy.

The committee do not feel justified in recomme
ment suggested by Colonel Corkhill, which is t
shall be reimbursed the expense incurred, whic
abstract of the title. This expense was compar
more than several hundred dollars at most. If
tled to the land, as the committee think they ar
be required to pay the cost incurred by the U
gating the title.

The parties in interest under the bill are the f
P. Patterson, Superintendent of the Coast Surve
who, while living, employed all his time in the
ment, with that unselfish devotion by which h
guished, and which caused a neglect of his private
accounts for the seeming delay in having the titl

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1272.

GAMING IN THE DISTRICT OF COLUMBIA.

MAY 16, 1882.—Referred to the House Calendar and ordered to be printed.

Mr. URNER, from the Committee on the District of Columbia, submitted the following

REPORT:

[To accompany bill H. R. 1294.]

The Committee on the District of Columbia, to whom was referred the bill (H. R. 1294) more effectually to suppress gaming in the District of Columbia, respectfully report:

That they have considered said bill, and report the same back with a recommendation that it be passed with certain amendments hereinafter mentioned.

The committee ask that the accompanying letter from Hon. Geo. B. Corkhill, United States attorney, District of Columbia, be considered a part of this report.

The committee recommend the adoption of the following amendments to said bill:

In the fourth line of the first section, before the word "table," insert the word *gaming*, and after the word "table" insert the words *or any house, vessel, or place on land or water for the purpose of gaming.*

In the fifth line of the first section, after the word "keno," insert the words *thimbles or little joker.*

In the eighth line of the first section strike out the word "and" and insert the words *or who* in the place thereof.

In the eleventh line of the first section strike out the word "felony" and insert the word *misdemeanor* in the place thereof.

In the twelfth and thirteenth lines of the first section strike out the words "in the jail of the District, and kept at hard labor."

In the seventh and eighth lines of the second section strike out the words "in the jail or workhouse of the District, and kept at hard labor."

In the sixth line of the third section stike out the word "felony" and insert the word *misdemeanor* in the place thereof.

Strike out the fourth section and substitute the following in the place thereof: "That all games, devices, or contrivances, at which money or anything shall be bet or wagered, shall be deemed a gaming table within the meaning of this act; and the courts shall construe the preceding sections liberally, so as to prevent the mischief intended to be guarded against."

Add section 5 as follows: "That this act shall take effect from the date of its passage, and all laws inconsistent herewith are hereby repealed."

OFFICE OF UNITED STATES ATTORNEY,
DISTRICT OF COLUMBIA,
Washington, D. C., May 1, 1881.

SIRS: I have the honor to acknowledge the receipt of your communication of March 18, referring to me, for such *information* as I might be able to communicate, House

bill No. 1294, entitled "A bill more effectually to suppress gaming in the District of Columbia."

The laws at present in force on this subject have been found inadequate, and I therefore deem it very desirable that Congress should enact a law which would prove more effectual. In my opinion, however, the bill submitted to me for examination would not, in its present form, accomplish the object desired; and I beg to submit my objections to it, along with some suggestions for its amendment.

Section 1144 of the Revised Statutes for the District of Columbia provides, among other things, that "any person convicted in any court of the District of * * * keeping a faro-bank, or other common gaming-table * * * shall be sentenced to suffer punishment by imprisonment and labor in the penitentiary for the period prescribed in this chapter." Section 1162 provides that "every person convicted of obtaining by false pretences, any goods or chattels, money, bank-note, promissory note, or any other instrument in writing, for the payment or delivery of money or any other valuable thing, or of keeping a faro-bank or gaming-table, shall be sentenced to suffer imprisonment and labor for a period not less than one year nor more than five years." The proposed law should contain a clause repealing the above sections in so far as they relate to gaming.

I would recommend the insertion of the words "common gaming" before "table," in line 4 of section 1, and after "table" the insertion of the words "or any house, vessel, or place, on land or water, for the purpose of gaming." This is the language of the Maryland law, and its adoption here, together with the clause hereinafter quoted, also from the Maryland law, would obviate the necessity of proving the keeping of a *gaming-table* in the strict sense of the term, a necessity which has been the main source of difficulty in efforts to enforce the present law.

"Equality" and "keno" (line 5, sec. 1) are distinct games, and these words should be separated by a comma. After "keno" the words "thimbles" or "little joker" might with propriety be inserted.

A very serious defect in the bill is that it requires that the defendant should both keep the table and induce, entice, or permit some person to bet or play at or upon it, in order that the offense may be complete. This renders the proof of the offense doubly difficult, and subserves no useful purpose. By the present law and by the laws in force in almost every State, the "keeping" alone is an offense. By substituting for "and" in line 8, section 1, the words "or who," this objection would be removed, and the act at the same time extended to reach another class of offenders, the "heelers," and others engaged in operating the game.

It is unwise to declare these offenses felonies as in sections 1 and 3. They are almost universally misdemeanors; and to call them felonies adds nothing to the punishment, while it gives the accused special privileges in the challenge of jurors, and otherwise.

It will be necessary to amend the latter part of each section prescribing the punishment which, according to the bill, is to be by imprisonment at hard labor in the jail of the District. While under these provisions it would be imperative upon the court to make hard labor a part of its sentence, such a sentence could not be carried out in the jail of the District, where labor is no part of the discipline. By section 5541, Revised Statutes of the United States, prisoners sentenced to imprisonment for one year or longer, and by section 5542 those sentenced to imprisonment at hard labor, may be sentenced to the penitentiary. As there is in the District no prison suitable for the confinement of such prisoners, the Attorney-General, in accordance with section 5546, Revised Statutes, designates the penitentiary to which they shall be sentenced. Such convicts are uniformly sentenced to imprisonment in the penitentiary. I would therefore recommend that the words "in the jail of the District" be stricken out in line 12 of section 1, and lines 8 and 9 of section 3, and the words "and kept at hard labor," in line 8, section 2. The inconvenience resulting from punishing these offenses in a manner different from all others would, in my opinion, even if no more serious question presented itself, justify these changes.

Finally, I would recommend the insertion of the following or similar sections: "All games, devices, or contrivances at which money or any other thing shall be bet or wagered shall be deemed a gaming-table within the meaning of this act."

"The courts shall construe the preceding sections liberally, so as to prevent the mischief intended to be guarded against."

The above sections are taken from the very efficient law in force in Maryland. Their wisdom and utility in giving effect to the act must be at once apparent.

I have the honor to be, very respectfully,

GEORGE B. CORKHILL,
United States Attorney, District of Columbia.

The Hon. the COMMISSIONERS OF THE DISTRICT OF COLUMBIA.

The bill and papers forwarded me are herewith returned.

OFFICE OF THE COMMISSIONERS OF DISTRICT OF COLUMBIA,
Washington, March 2, 1882.

SIR: The Commissioners, in response to the request made on the 15th March, through the clerk of the Committee on the District of Columbia, House of Representatives, for the views of the district attorney upon bill H. R. 1294, "more effectually to suppress gaming in the District of Columbia," have the honor to transmit the inclosed copy of the report of Hon. George B. Corkhill, United States attorney for the District of Columbia, to whom your request was referred on the 18th March for such information as he might have to communicate.

The bill is herewith returned.

By order of the board.

Very respectfully,

J. DENT, *President.*

Hon. M. G. URNER,
Of Subcommittee of Committee for the District of Columbia,
House of Representatives, United States.

C

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1273.

CONTESTED ELECTION CASE OF LOWE vs. WHEELER.

MAY 17, 1882.—Ordered to be printed.

Mr. HAZELTON, from the Committee on Elections, submitted the following

REPORT:

The Committee on Elections, to whom were referred the papers relating to the contested election case in the eighth Congressional district of Alabama, having had the same under consideration, submit the following report:

This contest comes from the 8th district of Alabama, composed of eight counties in the northern part of the State. The secretary of state certifies as follows, as appears on page 470 of the record:

Returns of the Congressional election in the eighth district, November 2, 1880.

Counties.	Joseph Wheeler.	Wm. M. Lowe.
Morgan	1,392	928
Madison	2,825	3,501
Limestone	1,569	1,704
Lawrence	1,517	1,993
Lauderdale	1,709	1,322
Jackson	1,948	1,680
Franklin	611	400
Colbert	1,237	1,237
Total	12,808	12,765

STATE OF ALABAMA,
Office Secretary of State:

I, W. W. Screws, secretary of state, do hereby certify that the above is a correct copy of the official returns of an election held in the eighth Congressional district of Alabama, on the second day of November, A. D. 1880, as returned to this office by the supervisors of election for the various counties composing said district, at which election Joseph Wheeler and William M. Lowe received the votes set opposite their respective names.

Witness my hand at office, in the city of Montgomery, this 13th day of January, A. D. 1881.

W. W. SCREWS,
Secretary of State.

Upon this return the contestee, Mr. Wheeler, was declared elected by forty-three majority, and received the certificate of election.

It is conceded that a much greater number of votes were received for Lowe than appears upon said certificate of the secretary of state.

And it is practically admitted that if all the votes cast and received for Lowe had been counted and returned by the inspectors of the election, the result would have shown the election of Mr. Lowe by a large majority.

As the case is presented to the committee, two leading and controlling questions arise for consideration and determination; 1st, as to the proper and legal form of the ballot; and, 2d, as to registration. The evidence discloses that in order to declare Mr. Wheeler elected by forty-three majority the inspectors of the election at fourteen out of nearly two hundred precincts in said district had to reject and did reject in the count 601 ballots cast for the contestant.

The number of ballots so rejected is assumed in the arguments of contestee's counsel at about 515.

These ballots were rejected by said inspectors because they had on them the numerals 1st, 2d, 3d, &c., designating the electoral districts of the said State. The rejected ballots were in the following form and words:

FOR ELECTORS FOR PRESIDENT AND VICE PRESIDENT:

STATE AT LARGE.

W. L. BRAGG.

E. A. O'NEAL.

DISTRICT ELECTORS.

1st District—D. P. BESTOR.

2d District—JOHN A. PADGETT.

3d District—J. F. WADDELL.

4th District—JOHN ENOCHS.

5th District—THOS. W. SADDLER.

6th District—J. G. HARRIS.

7th District—F. W. BOWDON.

8th District—H. C. JONES.

FOR CONGRESS—EIGHTH DISTRICT.

WILLIAM M. LOWE.

FOR ELECTORS FOR PRESIDENT AND VICE PRESIDENT:

STATE AT LARGE.

JAMES M. PICKENS.

OLIVER S. BEERS.

DISTRICT ELECTORS.

1st District—C. C. McCALL.

2d District—J. B. TOWNSEND.

3d District—A. B. GRIFFIN.

4th District—HILLIARD M. JUDGE.

5th District—THEODORE NUNN.

6th District—J. B. SHIELDS.

7th District—H. R. McCOY.

8th District—JAMES H. COWAN.

FOR CONGRESS—EIGHTH DISTRICT.

WILLIAM M. LOWE.

And the statutes to be construed in the consideration of this question are as follows:

AN ACT to amend section 276 of the code of Alabama.

SECTION 1. *Be it enacted by the general assembly of Alabama*, That section 276 of the code of Alabama be amended to read as follows: One of the inspectors must receive the ballot folded from the elector, and the same passed to each of the other inspectors, and the ballot must then, without being opened or examined, be deposited in the proper ballot-box.

Approved February 8, 1879.

AN ACT to amend section 274 of the code of Alabama.

SECTION 1. *Be it enacted by the general assembly of Alabama*, That section 274 of the code of Alabama be amended so as to read as follows: The ballot must be a plain piece of white paper, without any figures, marks, rulings, characters, or embellishments thereon, not less than two nor more than two and one-half inches wide, and not less than five nor more than seven inches long, on which must be written or printed, or partly written and partly printed, only the names of the persons for whom the elector intends to vote, and must designate the office for which each person so named is intended by him to be chosen; and any ballot otherwise than described is illegal, and must be rejected.

Approved February 12, 1879.

(Acts Ala., 1878-9, page 72-3.)

AN ACT to amend section 286 of the code of Alabama.

SECTION 1. *Be it enacted by the general assembly of Alabama*, That section 286 of the code of Alabama be amended so as to read as follows, viz:

§ 286 (264). *Manner of counting out votes.*—In counting out, the returning officer, or one of the inspectors, must take the ballots, one by one, from the box in which they have been deposited, at the same time reading aloud the names written or printed thereon, and the office for which such persons are voted for; they must separately keep a calculation of the number of votes each person receives, and for what office he receives them; and if two or more ballots are found rolled up or folded together, so as to induce the belief that the same was done with a fraudulent intent, they must be rejected, or if any ballot containing the names of more than the voter had a right to vote for, the first of such names on such ticket, to the number of persons the voter was entitled to vote for, only must be counted.

Approved February 13, 1879.

(Acts Ala., 1878-9, p. 73.)

The contestee in this case insists that the expressions "1st district," "2d district," which appear on said ballot, do of themselves render the ballots illegal under said section 274, as amended.

This statute provides that the "ballot must be a plain piece of white paper, without any figures, marks, rulings, or embellishments thereon." We are unable to conceive how this form of ballot infringes upon either the letter or spirit of the statute. If we are to adopt the narrow and strained construction of this statute presented by the contestee, then we must assume that the legislature of Alabama intended to impair and destroy the integrity of the legal voting power of the State instead of securing it in its proper rights, because it would be impossible to prepare a ballot that would stand the test of such a construction, and that could not be rejected at the caprice of a party inspector of elections for a reason as valid and strong as that presented in this case. Such a construction means simply disfranchisement of the citizen, and makes the law itself a fraud upon the freeman's boasted right of franchise. We quote with favor the following extract from the contestant's brief on this point:

Does the use of the numerals or figures, 1st. 2nd, &c., make the ballot illegal? The intention of the statute is to be looked for before construing it. The word "figures" must be construed in connection with the word "marks, rulings, characters, embellishments." If a construction so literal as that suggested by this objection be given this statute, no legal ballot can be written or printed, because the literal meaning of the word "character," for instance, would force one to print or write his ballot with-

out making a letter, for a letter is literally a "character." because they contained the letter o, the "figure" of a cir ant's name, would not have been further from a correc than the one which holds that the numerals 1st, 2nd, & meaning. The meaning is clear. The word figures refe acters," designs, pictures, or prints that would deprive tl ballot must not contain a flag, an eagle or other device. paper.

It has been a long standing custom througho the North, and especially in Alabama, to desig tickets in just this way, and no one ever claime the secrecy of the ballot or was subject to the fe against it. (Record, page 1229.)

The act to amend section 276 of the code of A

One of the inspectors must receive the ballot, folded, fr passed to each of the other inspectors, and the ballot opened or examined, be deposited in the proper ballot bo

The act to amend 286 of the code of Alabam

In counting out, the returning officer or one of the insp one by one, from the box in which they have been deposi aloud the names written or printed thereon and the office voted for; they must separately keep a calculation of th son receives and for what office he receives them; and found rolled up or folded together so as to induce the be with a fraudulent intent, they must be rejected; or if any of more than the voter had a right to vote for, the first c to the number of persons the voter was entitled to vote

We conclude, from reading and construing t that the rejected ballots were legal, and should

Mr. Webster, in the Rhode Island case, stated erning principles of the American system of su

The first is, that the right of suffrage shall be guarded, p force and against fraud.

The second is, that its exercise shall be prescribed by pr shall be prescribed by previous law; the time and place scribed by previous law; the manner of its exercise unde sworn officers of the law) is to be prescribed. And the certified to the central power by some certain rule, by s some clear and definite form to *the end* that *two things may*

First, that every man entitled to vote may vote; secon forward and counted, and so he may exercise his part of his fellow-citizens.

In a spirit as broad as this the bill of rights of bama (sec. 34) declares that "The right of suffr *laws regulating elections* and prohibiting, under undue influences, &c.; and the constitution (ar "All elections by the people shall be by ballot

The right of suffrage thus guaranteed by the cannot be imperiled or destroyed by any legis construction makes this great constitutional hang upon the caprice or whim of the partisa which if exercised, as in this case, must inev sacrifice all the substantial rights of citizen fran and uncertainty.

The style in which they were printed does of the ballot. They were printed on plain wh thing whatever upon them to betray their cha

It is contended by the contestant that this the law of Alabama had its origin in the fo

and placed in friendly hands by the chairman of the Democratic committee, just before and on the day of election. The notice is at least significant:

DEAR SIR: As soon as the polls are closed, inform the inspectors of the election that the Lowe tickets with Hancock electors on them are illegal. They contain the figures 1st, 2d, &c., designating the district. These are marks or figures which are prohibited by the election laws; see acts 1878–'9, page 72; and all such tickets should be rejected when the votes are counted, after the polls are closed.

[Indorsed on back in writing:]
To be shown only to very discreet friends.

But we beg leave, for a moment, to refer to the bearing of the laws of the United States upon this question. Congress has the power (article 1, section 4,) "to make or alter" State regulations as to "the manner" of holding Congressional elections. In section 27, Revised Statutes, Congress has enacted that "All votes for Representatives in Congress must be by printed or written ballots." This provision as to the ballot is exclusive and supreme so far as it goes. The States cannot alter it. See also sections 2012, 2017, 2018, of the Revised Statutes. These sections relate to the appointment of supervisors and to the definition of their powers and duties in national elections.

The evidence shows that the following votes for contestant were illegally rejected in the count on the ground before stated.

REJECTED VOTES.

	Votes.	Record, page.
Big Creek	7	346–8–9
Chickasaw	8	404
Courtland	65	496–7
Danville	42	382
Decatur	3	376
Elkmont	56	339–341–3
Falkville	97	370–3–5
Flint	76	33 to 35
Florence	4	908
Green Hill	22	1388
Huntsville	61	37–41–2–6–7–8
Kash's	2	309
Madison	33	130–137–9
Meridianville (No. 1)	2	294–5
Owen's Cross-Roads	31	140–3–8
Poplar Ridge	41	150–3
Russellville	51	394–6–7
Rejected votes	601	

The evidence shows that these votes were cast for Mr. Lowe. The Flint box, with 76 votes for contestant and 59 votes for contestee, is put down with the rejected votes for convenience, although the whole box was rejected on account of some alleged irregularity on the part of the election officers. It is familiar law that innocent parties must not be prejudiced by such irregularities, nor deprived of their rights by matters occurring after the election, and over which they had no control. Flint box, therefore, must be counted. (See record, page 365, 367, 369. See Platt *vs.* Goode, Digest Election cases 1871–6, page 650; McCrary on Elections, page 145.)

MERIDIANVILLE, BOX NO. 2.

The inspector's returns from this box give contestant 47 votes, 18 less than the number received by the rest of the opposition ticket with contestant's name upon it. Every State officer at this box, in direct violation of the State law, was "A pronounced Democrat and Wheeler man." The friends of contestant determined, under the circumstances, to keep a tally-list of contestant's voters as a check upon the inspectors.

John Wesley, who kept said tally-list, swears as follows:

Question. Was there or not an agreement between you and other colored men to endeavor to ascertain and keep the number of the Garfield and Arthur and Lowe vote? (Contestee objects to the leading character of this question.)

Answer. There was.

Q. What was your part in carrying out such agreement?—A. I don't understand you. What did I do is your meaning?

Q. Yes, sir. I mean what did you do in endeavoring to ascertain the number of Garfield and Lowe votes?—A. I was placed around near the window, in front of the window, and remained there all day and taken the number of tickets as the men marched to the polls, and put them in as they marched two by two to the polls and voted. I stood where I could see along the line and see that the men carried the ballot, as the resolution was passed, without putting their hands in their pockets.

Q. Were these men whom you were to see and did see so carry their ballots the same men whom Wade Blankenship and others had distributed the ballots to?—A. They are.

Q. Did you put down in any way the number of men that you saw come to the polls having received ballots from Wade Blankenship and others and deposited them?—A. I did.

Q. How did you put down the number; in what way?—A. Marked them on a piece of paper and made a tally of it; five in a tally.

Q. Have you now in your possession that paper?—A. I have.

Q. Please produce it. (Witness produces paper.)

Q. File that paper with your deposition, having the stenographer mark it Exhibit No. 1, to identify it.

EXHIBIT NO. 1.

VVVVVVVVVVVVII.

A. I have done so.

Q. How many voters does this paper show you kept account of?—A. Sixty-six; it is sixty-seven this paper shows I kept account of.

Q. How many of them were colored men?—A. Sixty-six.

Q. Who was the other one?—A. A white man; not personally acquainted with him; they say his name was Mr. Wm. Jones.

Q. Why did you put his name on the list?—A. As he voted for Mr. Lowe.

Q. And made it known, did he not, that he was so voting?—A. He did.

Q. Were you present at the meeting of the colored men, held after they learned that only forty-seven votes were counted at box number two for Colonel Lowe?—A. I was.

Q. Was or not a list of men who claimed that they had voted for Colonel Lowe made out at that meeting?—A. There was.

Q. Were or not the men whose names appeared on that list the same men of whom you kept the count by tallies?—A. Yes, sir. (Record, pages 243, 244.)

On cross-examination he said:

Q. It is true, then, is it not, that all you know about how people voted at Meridianville precinct is this: First, that you, while standing off some twenty or thirty feet, checked off 67 marks as you saw 67 men go up and put in their ballots, and that afterwards, at a club meeting, 66 men gave in their names and said as they gave in their names that they voted for Lowe?—A. I saw the tickets distributed, and as they marched to the polls and handed them in, I marked them down. (Record, page 247.)

The reason why these colored men passed the resolution that they would hold their ballots openly when they walked up to vote is explained by this witness:

Q. I wish you would give the full reasons that induced the colored men to pass the resolution and to act upon it by holding their tickets from their bodies without put-

ting their hands in their pockets as they approached the polls and deposited them?—A. It had been said throughout our neighborhood that the colored people would tell each other that they would vote one ticket and sell themselves to the Democrats, put their hands in their pockets and change tickets before getting to the polls. They said it was understood among them that they intended for everybody to see that this shouldn't be, by keeping their hands from their body; they shouldn't have the privilege of making that report. They would keep their hands from their body and it could be seen by everybody.

Q. After what election was it that Democracts said that colored people sold out in that way?—A. It has been said all the time, but more so since the August election.

Record, pages 247, 248.

Another colored man named Blankenship swears that he distributed tickets to 66 colored men; that he saw them openly vote the ticket for Garfield and Lowe which he gave them. (Record, pages 232,233.) These are the same men that John Wesley swears he saw vote for the contestant. (Record, page 244).

Felix Forbes, the United States supervisor testified as follows:

Q. Did you not at the beginning of the count occupy a position toward the inspector who was calling out the ballots so that you could have seen the names upon the ballots?—A. Yes, sir.

Q. Did he or not change his position so that you couldn't see the names?—A. Yes, sir; he changed from the position he first taken. He was inclined this way, he changed it.

Q. Did he or not make such change in his position that from where you were sitting you couldn't see or read any of the ballots?—A. No, sir; I couldn't see them.

Q. The position that he occupied when he first commenced calling the ballots, could you have not, by endeavoring to do so, by leaning forward, have seen them?—A. Yes sir; I could have seen them.

Q. How did it happen at that box that Wm. M. Lowe got 18 votes less for Congress than the Garfield Presidential electors received?—A. I couldn't say.

Q. Give your best judgment and opinion as to how it occurred.—A. Well, my honest opinion is that he got the votes, and they were not called for him by the inspectors.

Q. Were there not living in that precinct eighteen voters who voted at box number 2 who were known as supporters of Garfield, and yet desired to support Joseph Wheeler for Congress? (Contestee objects.)—A. I don't believe there was.

Q. Who now has possession or who took possession after the close of the election of the ballots, box, and poll lists at that box?—A. Truitt. (Record, page — .)

In addition to the above, the voters themselves were called to testify, and 55 did swear that they voted for contestant. The result of this evidence of outright and open fraud in the count must be to reject this box. The returns being successfully impeached, contestant very properly relies upon the direct testimony of the voters themselves, which clearly entitles him to 55 votes at this box.

LANIER'S PRECINCT.

At this precinct, as at Meridianville, all the State officers, sheriffs, and clerks, were ardent partisans of the contestee, the contestant had no friend among them. The poll list shows that 188 persons voted at this box. Yet, the inspectors, in defiance of law and mathematics, counted for contestee 142 votes, and for contestant 57 votes, making 199 votes, or 11 more ballots in the box than names on the poll list. The blundering fraud is apparent on the face of the returns.

The inspectors certify that on counting the ballots after the election, there were 11 more ballots in the box than were names on the poll-list, and that they deducted 2 Republican ballots and 9 Democratic ballots, because they were found folded together. But the certificate of the probate judge, also a partisan of the contestee, shows the vote cast and counted at this box, as follows:

"Ballots counted for Wm. M. Lowe, 56. Ballots counted for Joseph Wheeler, 142."

JOHN HERTZLER testified:

Question. What is your occupation and where do you live?—Answer. Well, I liv in this county ten miles south of this place—Lanier's precinct, in Madison Count Alabama.

Q. How long have you lived there?—A. Eleven years, sir.

Q. Where did you come from when you moved there?—A. I came from Clark County, Ohio; Springfield, Ohio.

Q. Is it not true that you have purchased and now own forty to fifty thousand dol lars' worth of real estate?—A. I don't know what it might be worth, but I own sixtee hundred acres of land there.

Q. Were you one of the inspectors of the election at Lanier's precinct, November 1880?—A. Well, I was appointed to be there, as, I believe, overseer, supervisor of ele tion.

Q. What time did you get to Lanier's, the polling place?—A. I went there befor six o'clock in the morning.

Q. At what time were the polls opened at that box?—A. The polls were opened a about half past eleven, or, probably, near twelve, the voting commenced. It wa eleven before there was any voting done; there was some dispute or some trouble a to the registrar.

Q. Who were the inspectors who held the election at that box?—A. The inspector were William F. Baldridge, William M. High, and Frank Horton.

Q. William F. Baldridge and William High are white men, and Frank Horton is colored man?—A. Yes, sir.

Q. What are the politics of William F. Baldridge and William M. High and Fran Horton; were they or not Wheeler men and Democrats?—A. To the best of my know edge, they are; yes, sir.

Q. Who were the clerks of the election at Lanier's box?—A. Burwell C. Lanier, jr and James McDonnell.

Q. What are the politics of these two clerks?—A. I believe they were Wheeler men

Q. Who was the returning officer at Lanier's box?—A. Burwell C. Lanier, sr., th old gentleman.

Q. He was a Wheeler man and a Democrat, was he not?—A. Yes, sir; to the best o my knowledge.

Q. Did the registrar of that precinct attend the polls on the morning of the elec tion?—A. No, sir.

Q. Who was appointed in his stead?—A. Archie McDonnell, sr.

Q. Is it not true that Archie McDonnell, sr., was a Democrat and Wheeler man?—A. Yes, sir.

Q. Is it not true that Lanier was a new precinct or voting place?—A. Yes, sir.

Q. When the voting began did or not the inspector, William F. Baldridge, challenge any votes?—A. Yes, sir.

Q. How many did he challenge?—A. Well, I judge he challenged about three out of five.

Q. Was these men whom he challenged known as Lowe men or Wheeler men?—A. Well, that I couldn't just say whether they were or not, but they were judged to be Lowe men.

Q. Yon say you think he challenged about three out of five?—A. Yes, sir; I am satisfied he challenged that many up to the time that Matkins came.

Q. When he would challenge a voter what would be done?—A. He would simply read them the oath that was there.

Q. Did Mr. Baldridge do the reading himself?—A. Yes, sir.

Q. Did he read rapidly or very slowly?—A. He read very slowly, sir; very tedious.

Q. How long has Mr. William F. Baldridge been living in that precinct?—A. He has lived there eleven years. Just as long as I have.

Q. Isn't it true that he is well acquainted with the people living in that precinct?—A. Yes, sir; I think he is as well acquainted as any man there.

Q. Were these men that he was challenging strangers to him?—A. I think they were all well known to him.

Q. It is true, is it not, that Mr. Baldridge is a planter in that precinct, and well acquainted with the people of that precinct?—A. Yes, sir; those that he did not challenge were such that, for instance, the Laniers, or Mr. James McDonnel, one of the clerks, or myself could recommend.

Q. Were you present at the time the ballots were received?—A. Yes, sir.

Q. Did or not any voter come up to the polls and hand to the inspector six or seven ballots twisted or folded together?—A. No, sir: I paid particular attention to that.

Q. If a voter had brought a roll of ballots, as I have described, and handed them to the inspector, would you not have noticed it?—A. Yes, sir.

Q. After the polls were closed did the inspectors begin to count the vote immediately?—A. No, sir.

Q. Did the inspectors remain at the house where the election was held, with the ballot-box?—A. No, sir.

Q. What did they do and where did they go?—A. Mr. Baldridge went home, Mr. High and Frank Horton staid there. I took charge of the box.

Q. Where was the election held; in what house?—A. It was held in the outhouse or rear end of the smith-shop.

Q. After the polls were closed, was the ballot-box kept in that house?—A. No, sir.

Q. Where was it carried?—A. It was carried to Lanier's store, close by.

Q. Who carried it there?—A. William M. High.

Q. Did you and the other inspectors go to the store at this time?—A. Yes, sir.

Q. Did the inspectors all go into this store?—A. No, sir.

Q. Who went into the store?—A. William M. High went into the store.

Q. And carried the box in?—A. Yes, sir.

Q. Where, then, did Mr. Baldridge go?—A. He went home.

Q. Where did Horton go?—A. He staid there at the store.

Q. Where did you go?—A. I staid there at the store for awhile.

Q. You and Horton, then, staid there, and Baldridge went home; where was High at this time?—A. He came out of the store again and was with us for awhile; he had gone into the store and deposited the box, and came back again.

Q. Did you or Mr. High go to supper?—A. Yes; we went to supper after that.

Q. Who was then left at the store with the ballot-box?—A. John Lanier.

Q. Is he the storekeeper?—A. Yes, sir.

Q. He was not an officer of the election, was he?—A. He was, I believe; I think he was a marshal that day, appointed by the government.

Q. Is it not true that this John F. Lanier was a pronounced Democrat and a Wheeler man?—A. Well, I could not say as to that; his politics were rather mixed; but I rather think he was then, at this last election, a Democrat.

Q. How long did you and Mr. High remain away from the store and at supper?—A. I expect it was nearly two hours; were away a long time.

Q. Did or not you and Mr. High go to the store after supper to get the ballot-box?—A. Yes, sir.

Q. Who went with you?—A. Mr. Burwell Lanier, Mr. John Lanier, and Mr. Clint. Lanier.

Q. Who unlocked the store?—A. John Lanier.

Q. Did you get the box?—A. Yes, sir.

Q. Where was it then carried?—A. It was then carried by Mr. High to Mr. Burwell Lanier's house, in his parlor.

Q. And then in his parlor did you then proceed to count the vote?—A. Yes, sir.

Q. Was William F. Baldridge then present?—A. Yes, sir.

Q. Did he or not rejoin you at the store when you went for the ballot-box?—A. He did.

Q. What kind of a box was that ballot-box?—A. It was a little wooden box, a little candy box formerly, with a lid on top that could open and shut by sliding the top in grooves.

Q. Did it or not have upon it any lock?—A. No, sir; it didn't have any lock.

Q. Was there or not a hole cut in it for the purpose of putting in ballots?—A. Yes, sir.

Q. When the ballot-box was left at the store, was it or not in such a condition that the top could have been pulled off?—A. It could have been very easily pulled open; that is, the lid could.

Q. When you proceeded to count the ballots in Mr. Lanier's parlor who was present?—A. The inspectors of the election and the clerks were present, and there was also present another colored man, Alexander Kelley, and myself.

Q. Was the box then opened in the presence of these men?—A. Yes, sir.

Q. And the inspectors proceed to count the vote?—A. Yes, sir.

Q. Were or not any ballots found in that box rolled or twisted together?—A. Yes, sir; there were.

Q. What kind of ballots were they; Wheeler ballots, or Lowe ballots?—A. Wheeler ballots.

Q. How many were rolled in a bunch?—A. Well, to my certain knowledge there were two bunches, they then were that were. In one there were six; in one there were seven; there were several that were two or three; there were several other bunches that had two or three in them.

Q. These tickets so in bunches were all Wheeler tickets, were they not?—A. Yes, sir; two bunches were Wheeler tickets.

Q. You mean the two bunches, one containing six ballots rolled together, and the other containing seven ballots rolled together?—A. Were all Wheeler ballots; yes, sir.

Q. Who took the ballots out of the box and called them out to the clerks?—A. Mr. Baldridge took out the greatest part of them, and Mr. High took out some of them.

Q. Were or not this bunch of six tickets and this bunch of seven tickets all counted for Wheeler?—A. They were all counted.

Q. After the ballots had been counted, how did the number of ballots compare with the number of names on the poll list?—A. There were eleven more ballots than there were names.

Q. Who cut the hole in this ballot-box, through which the ballots were put into the box?—A. I did.

Q. How large was it?—A. Half an inch by an inch.

Q. Were all the ballots which were in the box counted?—A. Yes, sir.

Q. And then it was ascertained, was it not, that the number of ballots counted exceeded by eleven the number of names on the poll list?—A. Yes, sir.

Q. Then what was done for the purpose of reducing the ballots so as to make it correspond with the number of names on the poll-list?—A. There were then nine of those ballots were then counted to the Republican side and two to the other.

Q. You mean that they deducted nine votes from the Democratic side and two votes from the Republican side?—A. Yes, sir.

Q. And in that way made the number of ballots correspond with the poll lists?—A. Yes, sir; that is how it was done.

Q. This process of making the number of ballots correspond with the poll list took from General Wheeler and the Democratic ticket nine ballots, and took from the Republicon ticket and Colonel Lowe two ballots?—A. Yes, sir.

Q. Were not all of the inspectors present in the counting of the votes Wheeler men?—A. Yes, sir.

Q. What reason did they give for taking nine ballots from Wheeler and two from for Lowe the purpose of equalizing them?—A. They gave as areason that Wheeler's majority was so much the greater.

Q. The vote had been counted at this time so as to ascertain that his majority was greater?—A. Yes, sir.

Q. They gave no other reason except this?—A. No, sir.

Q. Who proposed that the vote should be equalized in this way?—A. Well, I couldn't positively say who proposed it. They asked me what I thought about it. I told them that I thought they ought to be pretty lenient to Colonel Lowe, as those two wraps that were in there were Wheeler votes.

Q. And they made this concession without complaint?—A. Yes, sir.

Q. Are you, or not, well acquainted with the voters of Lanier's precinct?—A. Well, I am not very well acquainted with them. As a general thing they were nearly all colored voters.

Q. It is true that you were well acquainted, is it not, with the white voters of that precinct, and with many of the colored voters?—A. O, yes, sir.

Q. From your knowledge of the voters of that precinct, and their politics, judging from their expressions before the election, and from all means of knowledge that you have, how many Wheeler men reside in and voted at that precinct?—A. Well, I did think, and think so yet, that 40 would have been an extremely high estimate of them.

Q. Did or not the inspectors, in your hearing, express surprise at the result after the vote was counted?—A. Yes, sir; all did.

Q. Did or not the electors who were best acquainted in the precinct express great surprise at the result?—A. Yes, sir.

Q. How many white voters are at the precinct?—A. About twenty.

Q. I shall now read to you the poll list of Lanier's precinct kept by the clerks of the election on November 2, 1880, and I'll ask you to keep a tally of the names whom you may know to be those of whose men as I call them, and then answer how many white men are recorded upon his poll list?—A. Sixteen is what I recognize.

Q. Were the ballots as they were received put through this hole the top of the box which you have described?—A. Yes, sir.

Q. Referring to the bunches of tickets, 6 in one bunch and 7 in another, which you have described as have been found in the box when it was open, could those bunches or rolls of ballots been passed through the hole in the box which you have described?—A. No, sir; not in the form which they were found in the box.

Q. According to your best judgment, how many Wheeler ballots were cast that way?

(Contestee objects to questions asking for the judgment of the witness as to how many ballots were polled.)

A. Well, I judged then, and do still think, that there was—that fifty would have been the whole amount.

Q. Isn't your best judgment that fifty would have been a liberal estimate of the entire strength of General Wheeler at that box?—A. Yes, sir.

Q. How do you account for the fact that when the ballots were counted out that only fifty-six ballots for Colonel Lowe, and one hundred and fifty for General Wheeler?—A. I cannot account for it only by my judgment.

Q. Give me your best judgment as to how it occurred?—A. My judgment is that the ballot-box had been tampered with while we were in to supper.

Q. Were these clerks, Burwell C. Lanier, jr., and James McDonnell, competent clerks?—A. Yes, sir; I think they were.

Q. Are they not young men of good education?—A. Yes, sir.

Q. And who write well?—A. Yes, sir.

(Record, page 176-77.)

On cross-examination by the contestee he said:

Q. You state, I believe, that the ballot-box was carried to the store and you were along with it?—A. Yes, sir.

Q. It was then carried in the store, and before you left it was locked up in a room in the store?—A. It was carried in the store, but where it was put in the store I didn't know until I saw it taken out. It was carried in the store.

Q. When you saw it taken out, it was taken out of a room that had a lock on it, was it not?—A. Yes, sir.

Q. It was taken out by Mr. High, was it not?—A. Yes, sir; I was by when he took it out.

Q. Do you understand Mr. High to have the key to that room?—A. I expect that he had the key, from the fact that he went there by the door and unlocked it. Where he got the key I don't know. I know he unlocked the door and had the key in his hand, and just reached in his hand in the dark and took the box; took it on his arm, and we went up to the house. When I say "in the dark," I didn't mean that he was in the dark, but that the room that he got the box out of was dark.

Q. This John F. Lanier, that was in the store, was a marshal at the election that day, was he not?—A. Yes, sir.

Q. This man John F. Lanier, who was a United States marshal, was the only man left in the store, was he not?—A. Yes, sir; well, he had some customers in the store; the store belongs to him. He came to supper, too, but he didn't go with us; he came up when we were nearly through supper.

Q. When you returned from supper it is true, is it not, that you went down with Mr. John F. Lanier, and you saw him open the store door? Was anybody in there when you opened it?—A. No, sir.

Q. Then you saw Mr. High go to the store-room and unlock that door and take out the ballot-box?—A. Yes, sir.

Q. And then you went with Mr. High to Burwell Lanier's house?—A. Yes, sir.

Q. And there in the presence of the inspectors, and in the presence of the clerks and a colored man by the name of Kelly, in addition to the man Frank Horton, the inspector, the ballots were counted?—A. Yes, sir.

Q. Nothing could have been done with the ballot-box while going from the store to the house?—A. No, sir; there was nothing done there.

Q. It is true, is it not, that the only place that any tampering could have been done to the ballot-box was while it was locked up at the store?—A. Yes, sir; that is the only time.

* * * * * * *

Q. What makes you think that the colored man, Frank Horton, whom you thought was a Republican up to November the 2d, is now a Democrat?—A. Up to November

2, I didn't know Frank Horton at all. It was on that day he was inspector, and why I thought that day he was a Republican, was why I knew the others were Democrats, and I thought they put him there as a Republican inspector.

Q. What has made you think since that he was a Democrat?—A. Simply that I have heard of him being accused of stuffing votes into that box—when I said it would be very strange that Frank Horton, a Republican, would stuff the box with Democratic tickets, they said that he was a red-hot Democrat, and from that what I learned that he was a Democrat.

Q. It is true, is it not, that Frank Horton cannot read or write?—A. I do not think he can. I did not see him take any part—he just sat there—did not do anything.

William H. High, one of the inspectors at Lanier's, and witness for contestee, testified:

Q. When you put the ballot-box in the side room at the store and went to the house what persons did you leave about the store?—A. I left John F. Lanier and several negroes. John F. Lanier came on to supper shortly after we got there, and was there with us. (Record, page 557.)

Extract from deposition of Lowe Davis:

Q. What time did you get to Lanier's on the day of the election?—A. I believe it was about eight or half-past eight o'clock.

Q. Was the register of that precinct, Mr. Madkins, there?—A. No, sir; he was not.

Q. Did you and others make any efforts to get the polls opened? If so, state fully what you did and what occurred in that respect, telling who assisted you, and what assistance they rendered, and what obstructions, if any, were offered by the inspectors, and how it was you succeeded in getting the polls opened.—A. Upon arriving we found out that Mr. Madkin, the register appointed, was not present; we waited for him some time, and finally concluded that he was not coming at all; we then went to where the inspectors intended to hold the election and requested them to appoint another registrar. Mr. Baldridge, one of the inspectors, declined to do so, stating that he had no authority. Mr. R. H. Lowe then procured a copy from Mr. Clint. Lanier, of the Code of Alabama, and read the law in regard to the appointment of a registrar from that; he (Baldridge) still objected, though stating that he was a State rights man, and would not go by the United States Statutes. The construction that he put upon the code was not the one that he put upon it. He did not think that he had any authority whatever to appoint another registrar or an assistant registrar. Mr. Burwell C. Lanier, sr., then insisted to quite an extent; and, finally, after Mr. High and Horton, a colored inspector, had consented, Mr. Baldridge appointed Mr. McDonnell, an old gentleman about seventy years of age, as assistant registrar.

* * * * * * *

Q. When the polls were finally opened after the registrar was appointed, did the inspectors, or any one of them, make any objection to Mr. Archie McDonnell, sr., having assistance in writing out the certificates of registration?—A. Mr. Baldridge did.

Q. Did he or not claim that Mr. McDonnell should write them all out himself?—A. He did; we saw that it was impossible for Mr. McDonnell to do that; at least we thought so, as there were no blanks furnished by the inspectors or in possession of the registrar.

Q. And did some of you insist upon helping Mr. McDonnell?—A. Yes, sir; we did. (Record, page 190.)

* * * * * * *

Q. Did you or not have an opportunity to observe the manner of the distribution of the ballots to the colored voters and who was distributing them?—A. I did.

Q. Who did you see distributing ballots, and who did you see, if any one, preserving a tally or score of the voters who received the ballot and went forward to vote?—A. I frequently during the day went down to where the negroes were going in to vote. I saw at that place Pope McDaniel, I think his name is, keeping a tally-sheet of the men who voted for Lowe; and also another colored man distributing tickets.

Q. Who was this colored man distributing tickets?—A. I have forgotten his name; Wallace something.

Q. Have you or not seen this other man who was distributing tickets here to-day, being examined as a witness?—A. Yes, sir.

Q. Wasn't his name William Wallace?—A. I think it was, sir.

Q. Isn't he the man who is sometimes called Wallace Toney?—A. Yes, sir.

Q. You recognize the man as the man who was distributing the tickets?—A. I do.

Q. Was there or not any action on the part of the inspectors as the voters went up to deposit their ballots that indicated a disposition to delay their election?—A. There was.

Q. State fully what occurred in that connection.—A. The electors, after they had received their certificates of registration, would go to the polling place, and every one that voted while I was present, and I saw a great many vote, were challenged, to the best of my knowledge.

Q. How near were you to the inspectors, looking on, at the time you saw these men challenged?—A. About thirty yards; probably not that far.

Q. What could you see?—A. I could see the elector walk to the box or where they were polling the votes and offer his ticket, holding it in his hand; some would remain there for two or three minutes with the inspectors. I heard them swear a good many of them.

Q. There seemed to be some delay in the receiving of all the ballots that you saw received?—A. Yes, sir.

Q. Did you or not examine this tally-sheet or score that you say Pope McDaniel was keeping of the ballots that Wallace Toney was distributing?—A. I did, just before I left, between three or four o'clock, I think.

Q. What was its condition as to the number of votes at the time you examined it?—A. 120 or 130 tallies upon the sheet or a piece of pasteboard which he held in his hand.

Q. What did you understand each one of these marks or tallies to represent?—A. A vote for Wm. M. Lowe.

Q. What time did you say you left Lanier's for Huntsville?—A. Between three and four o'clock.

Q. Alfred McColley could have come and voted after you left, could he not?—A. Yes, sir.

Q. Were there or not any white voters at Lanier's precinct known to be Lowe men?—A. Mr. John Allen was an avowed Lowe man. Since the election I have seen Mr. Bill Allen, who also told me that he voted for Lowe. I have heard that there were others.

Q. Both the gentlemen you have named voted at that precinct?—A. Yes, sir; at Lainer's precinct.

Q. If there had been a majority of the colored men who were at Lanier's precinct, who were for General Wheeler on the day of the election, would you or not have been able to discover the fact that there was a number of them for him during the day by your mixing with them and your conversation with them?—A. I think I would, sir.

Q. What did you discover to be the sentiment of that body of colored voters?—A. They all desired to vote for Garfield, Arthur, and Lowe.

Q. Did you or not offer to distribute Lowe tickets yourself?—A. I did, sir.

Q. What was said to you by the leading colored men in reference to your offer?—A. That they had procured Lowe tickets and were very desirous of keeping an accurate account of the votes polled for Lowe; that the electors present had confidence in them and they would prefer to distribute them as they had procured the Republican ticket with Lowe's name on it—the tickets the electors desired to vote.

Q. Didn't you understand, in that conversation, that arrangements had been made for William Wallace, sometimes called Wallace Toney, to distribute the ballots, and for a tally to be kept by Pope McDaniel?—A. I did, sir.

Q. And you saw, did you not, that plan while it was being executed?—A. I did. (Record, pages 191, 192.)

Richard H. Lowe, attorney-at-law, who accompanied Lowe Davis to Lanier's, corroborates him fully. He describes specifically the efforts made by Lowe's friends to get the polls opened, and the stubborn resistance made by Wheeler's supporters. (Record, page 157.) Lowe's friends expected a large majority at that box and Wheeler's friends thought that twenty votes would be as many as he would get there. (Record, page 158.)

Pope McDaniel, the Secretary of the Garfield Club, aided by William Wallace, distributed the tickets and saw 155 ballots cast for Lowe. (Record, pages 206–7.) His deposition is perfectly clear and consistent. He kept a tally-list of the ballots so cast for Lowe. (Record, page 208.) He is corroborated by Lowe Davis, as heretofore shown, and by William Wallace, who says distinctly that 155 men received the Lowe tickets and walked to the polling place and deposited them. That each voter carried the ballot so that witness could see it. (Record, page 216.) This precaution was taken on account of the frauds at the Triana box, in August. (Record, page 216,)

Lanier's precinct had been, since August, taken from the Triana precinct. For an account of the August election at that box, see the deposition of United States Marshal Joseph H. Sloss. (Record, pages 91–2–3.)

The depositions of Pope McDaniel and William Wallace should be carefully read in connection with the investigation of Lanier's box. The former is in record, page 206 to 215; the latter will be found on pages 215 to 231.

Under these circumstances, the contestant properly and legally called the voters themselves to testify as to how they had voted, one hundred and twenty-eight of whom came forward and swore that they voted for contestant. We think that contestant should have the benefit of these votes.

CAVE SPRING.

The witnesses for contestee admit that contestant is entitled to at least ten more votes at this box than are given him by the inspector's returns. (See record pages 964, 986, 467.)

Carver C. Hipp, on an examination as contestee's witness, testified:

Q. State whether you were present at the polls and voted at the Cave Spring's box at the Presidential and Congressional election on the 2d day of November, 1880?—A. I was present at the polls and voted at said election.

Q. State whether or not there was a large colored vote at the Cave Spring's box on said day, and how many negroes voted the Democratic ticket?—A. There was a very large colored vote at Cave Spring's box, and there were *only three negroes* who voted the Democratic ticket at said box.

Q. For whom did the colored people vote for member of Congress on that day?—A. They voted solidly for Wm. M. Lowe, with the exception of three. (Record, 964.)

Edwin G. Hendrix, a witness for contestee, on his examination by contestee's attorney, with the poll list of this box in his hands, gave the names of *sixty-four* colored men who voted at this box November 2, 1880. (Record, 986.)

Mr. Hipp says that all of these colored men, except three, voted for Lowe. Deducting three from sixty-four would leave sixty-one colored men who voted for Lowe.

The inspectors, all of whom were Wheeler's supporters, by their returns give Lowe only *fifty-one* votes. (Record, pages 467 and 986.)

Conceding that Lowe did not receive the votes of a single white man, if these witnesses tell the truth, and we do not on this point question their veracity, Lowe is entitled to ten more votes than the inspectors return for him.

The deposition of Mr. Hipp is a fair sample of the evidence taken, *ex parte*, for the contestee.

We find therefore, that the following additional votes should be counted for contestant:

	Votes.
Lanier's (Record 1263–1340)	128
Meridianville, No. 2. (Record 231, 241, to 259)	55
Cave Spring, (Record 964, 986, 467)	10
	193

In addition to the 601 rejected votes.

THE CASE OF CONTESTEE.

In reply to the foregoing statement of law and fact, the contestee puts in a plea in the nature of confession and avoidance. He seeks to show that many electors who voted for contestant did not have the legal qualifications; that they were minors, or convicts, or non-residents, or were not registered; and that "many hundreds of colored voters who

desired to vote for contestee were prevented from so doing by fear of *ostracism* and apprehension of harm to their persons and property, and even the destruction of their houses and property by fire."

In support of these allegations, the contestee has adduced a great mass of testimony, and presented briefs of extraordinary length, but has in our opinion failed to sustain his case. This testimony is almost altogether irrelevant, and much of it frivolous and generally secondary hearsay, and illegal. His proofs fail to sustain his allegations.

In regard to minors and non-residents, the mere statement of a witness that an elector is one of this class seems to be the sole reliance of the contestee. This is not sufficient. The witness must give facts to justify his opinion.

In regard to convicts, the record of conviction is the best evidence, and the only evidence to be accepted by the House, unless the loss or destruction of that record is shown. In no instance has the contestee produced the record or sought to account for its absence. We think it is clear also, that the contestee has not made such a showing in regard to the Courtland boxes, as would authorize us in rejecting the same under the authorities. "It must appear that the conduct of the election officers has been such as to destroy the integrity of their returns, &c.;" (McCrary, page 229), and we are not able to so find in this instance upon the proofs.

REGISTRATION.

In regard to the registration of voters, the facts as shown by the testimony do not sustain the claims made by the contestee. His testimony does not establish what he alleges it does. It is largely secondary and of a hearsay character at the best. The fact is that in many instances where he claims registration was not made, it was made, and in few instances, if any, does he establish the identity of the voter wherein he claims non-registration.

But whatever may be the facts upon this question of registration, we are clearly of the opinion that the constitution of Alabama does not make registration an absolute condition or prerequisite of voting, nor do the statutes of the State.

The provisions of the Alabama constitution (art. 8, sec. 5) in regard to registration is subject to two constructions: one making registration constitutionally essential to voting, and the other making registration essential only "*when it is so provided*" by law. The latter construction is the one taken by contestant. It is the plainest and most satisfactory construction that can be derived after giving full force to all the words in the section. On the contrary, the construction given by the contestee would eliminate the words "*when it is so provided*," and make the section read as follows:

> The general assembly may, when necessary, provide by law for the registration of electors throughout the State or in any incorporated city or town thereof, and no one shall vote at any election unless he shall have registered as required by law.

This reading of the section, with the words "*when it is so provided*" eliminated, is the construction given by the contestee to the entire section. But these words cannot be properly eliminated. They stand out in the section to qualify and limit its meaning. They must be given due consideration. They declare, in effect, not that registration shall be a prerequisite for voting, but that *when the general assembly shall so provide*, no person shall vote unless registered: meaning that

the legislature may make registration a prerequisite for voting, and that when "*it is so provided*" no person shall vote without being thus registered.

But the legislature has not seen fit to make such provision. Registration is not a prerequisite. It is not compulsory. It is not even put down as one of the qualifications of an elector.

The registration law of Alabama contains the following provision:

§ 233. *Registration on election day, and certificate.*—The assistant registrars shall be present at the voting precinct, or ward, for which they are respectively appointed, on the day of election, to register such electors as may have failed to register on any previous day, in their precincts or wards, which registration must be done, in every respect, according to the form prescribed; and the assistant registrar shall furnish to each elector who may register on the day of election, a certificate of registration, which shall be in the following form:

I, ——— ———, assistant registrar, do hereby certify that ——— ——— has this day registered before me as an elector.

(Signed) ——— ———,
Registrar.

Which certificate signed by the registrar, shall be sufficient evidence that such elector is registered; and in case such assistant registrar, for any cause, is unable to attend, or there be a vacancy in the office of assistant registrar for such precinct or ward, the county registrar shall appoint some competent person as assistant registrar for that day; and if no appointment be so made by 10 o'clock of that day, then the inspectors of election may appoint an assistant registrar, who may qualify and act as such for that day: but this section shall not apply to incorporated towns or cities having a population of more than five thousand inhabitants, except as is hereinafter provided by this chapter.

Every voter that complied with this condition complied with the requirements of the registry law of Alabama, and was as much entitled to vote as though he had been registered days before the election. In the face and eyes of such a provision, and in the absence of such proof as would show that the officers who had registration in their charge had deliberately violated their oaths, how are we to assume that this provision of law was not complied with in all cases of voters not embraced in the general registry? As to the presumption that the officers of the law charged with a duty performed it, we cite McCrary on Elections p. 231, to the election case of Finley *vs.* Bisbee, vol. 1, third session, Forty-fifth Congress, House Reports.

We conclude, therefore and we think rightfully, that the votes which the contestee claims should be thrown out on account of alleged non-registration cannot be deducted from contestant's votes; and, besides, that they could not be taken *pro rata* from the whole vote cast, because there is no evidence which establishes definitely and identically for whom they voted. It was held in Curtin *vs.* Yocum, 2d vol., House Reports of Forty-sixth Congress, where an elector votes without challenge, his vote cannot afterwards be rejected because his name may not be found on the registration list, but that it will be presumed the officers of the election *did* there duty till the contrary is proven.

We therefore find and report that the contestant was fairly elected; and that he was wrongfully counted out. We submit the following table of results:

Lowe has 12,765 votes returned for him, 601 rejected ballots proved for him, 193 additional ballots proved for him; total, 13,559; 103 votes which must be deducted on account of Meridianville and Lanier's polls being rejected for fraud.

Lowe's actual vote		134,56
Wheeler's vote as returned		12,808
Deduct Meridianville	57	
Deduct Lanier's	142	
		199
Wheeler's actual vote		12,609

FINAL.

Lowe's legal vote	13,456
Wheeler's legal vote	12,609
Lowe's majority	847

We therefore recommend the adoption of the following resolutions:

Resolved, That Joseph Wheeler is not entitled to a seat in this House as a Representative in the Forty-seventh Congress from the eighth Congressional district of Alabama.

Resolved, That William M. Lowe is entitled to a seat in this House as a Representative in the Forty-seventh Congress from the eighth Congressional district of Alabama.

VIEWS OF MR. RANNEY.

The record and briefs in this case are very voluminous. Much of the former is composed of matter which is personal in its nature and wholly immaterial. It has served to impose unnecessary labors upon the committee, and to prevent an earlier report to the House. The contest really presents but two substantial issues.

The first issue relates to about 525 ballots cast for contestant, and rejected by the inspectors, and which he now contends should be counted for him. The second relates to votes cast by alleged non-registered electors.

The official vote, as returned to the Secretary of State, and upon which the certificate was issued to contestee, was as follows:

Counties.	Joseph Wheeler.	Wm. M. Lowe.
Colbert	1.237	1,237
Franklin	611	400
Jackson	1,948	1,680
Lauderdale	1,709	1,322
Lawrence	1,517	1,993
Limestone	1,569	1,704
Madison	2,825	3,501
Morgan	1,392	928
Total	12,808	12,765

Wheeler's majority, 43 (Record, page 470).

The official vote at each precinct in each county is shown by the proper certificates found in the Record, pages 464–69.

It is proved clearly that 521 more ballots were cast for contestant and rejected by the inspectors in fifteen precincts, and that 8 more were cast for contestee and rejected in other precincts for the same reason.

Had these been counted and returned, contestant would have had a majority of 470.

Those for contestant rejected were as follows, viz:

Precincts:	Ballots.
Huntsville	61
Madison	33
Owens Cross-roads	31

Precincts:	Ballots
Poplar Ridge	[illegible]
Falkville	[illegible]
Decatur	[illegible]
Danville	[illegible]
Elkmont	[illegible]
Big Creek	[illegible]
Russellville	[illegible]
Chickasaw	[illegible]
Courtland	[illegible]
Green Hill	[illegible]
Kash	[illegible]
Meridianville	[illegible]

Those for contestee rejected were as follows, viz:

Precincts:	Ballots
At Huntsville	[illegible]
At Madison	[illegible]
At Falkville	[illegible]
At Courtland	[illegible]
At Mooresville	[illegible]

The rejected ballots read as follows:

FOR ELECTORS FOR PRESIDENT AND VICE-PRESIDENT:	FOR ELECTORS FOR PRESIDENT AND VICE-PRESIDENT:
STATE AT LARGE.	STATE AT LARGE.
W. L. BRAGG.	JAMES M. PICKENS.
E. A. O'NEAL.	OLIVER S. BEERS.
DISTRICT ELECTORS.	DISTRICT ELECTORS.
1st District—D. P. BESTOR.	1st District—C. C. McCALL.
2d District—JOHN A. PADGETT.	2d District—J. B. TOWNSEND.
3d District—J. F. WADDELL.	3d District—A. B. GRIFFIN.
4th District—JOHN ENOCHS.	4th District—HILLIARD M. JUDGE.
5th District—THOS. W. SADLER.	5th District—THEODORE NUNN.
6th District—J. G. HARRIS.	6th District—J. B. SHIELDS.
7th District—F. W. BOWDON.	7th District—H. R. McCOY.
8th District—H. C. JONES.	8th District—JAMES H. COWAN.
FOR CONGRESS—EIGHTH DISTRICT.	FOR CONGRESS—EIGHTH DISTRICT.
WILLIAM M. LOWE.	WILLIAM M. LOWE.

There was no objection as to size or form or kind of paper used.

The ballot on the left hand is what is called the Hancock and Lowe ballot, and the one on the right is the one called the Weaver and Lowe ballot.

The ballots were rejected by the inspectors because they had on them the numerals 1, 2, 3, &c., as would seem from the evidence, which is referred to for the convenience of those who may desire to read it.

At Huntsville the inspectors rejected sixty-one of these ballots (deposition of Thomas W. White, Record, pages 37, 41; W. L. Good-

win, pages 42, 46; Nicholas Davis, 47, 48, 52, 54). At Madison they rejected thirty-three (deposition of T. B. Hopkins, Record, page 130; Lockhart Bibb, pages 137, 139). At Owen's Cross Roads they rejected thirty-one (deposition of G. W. Maples, Record, page 140; W. L. Christian, 143; R. J. Wright, 148). At Poplar Ridge they rejected forty-one (deposition of E. C. Lamb, Record, page 150; Nathan Whittaker, 153). At Falkville they rejected ninety-seven (deposition of W. G. Smith; Record, page 370; Alfred Gandy, 373, 375). They rejected at Decatur two (deposition of H. A. Skeggs, Record, page 376). They rejected at Danville forty-two (deposition of J. Y. Fergerson, Record, page 382). At Elkmont they rejected fifty-six (deposition W. A. Pinkerton, Record, page 339, 341; A. G. Smith, 343). At Big Creek they rejected seven (deposition of A. C. Witty, Record, page 346, 348; William McCully, 349, 351). At Russelville they rejected fifty-one (deposition of John E. Seal, Record, 394, 396; D. N. Fike, 397). At Chickasaw they rejected eight (deposition of T. C. Walker, Record, page 404). At Courtland they rejected sixty-five (deposition of W. J. Gibson, Record, page 496; W. W. Simmons, 496).

As to Green Hill, see record, p. 1388; Kash, p. 309; Meridianville, pp. 294, 295.

The following named documents inclosed together in the same envelope were issued and sent to trusted friends, by the Democratic executive committee; and the one not signed—called the "yellow circular"—was given to the inspectors just at the close of the polls, and seems to have been heeded and acted upon by them in most of the precincts named above.

[Yellow circular.]

DEAR SIR: As soon as the polls are closed inform the inspectors of the election that the Lowe tickets with Hancock electors on them are illegal. They contain the figures 1st, 2d, &c., designating the district. These are marks or figures which are prohibited by the election laws; see acts 1878–'79, page 72; and all such tickets should be rejected when the votes are counted, after the polls are closed.

(Indorsed:) To be shown only to very discreet friends.

The kind of persons to whom it was intrusted for such use, is indicated by the paper with which it was inclosed, which is as follows, so far as now material.

IMPORTANT.

You are specially designated as a person whose influence and ability can accomplish much in the election.

* * * * * * *

You are earnestly requested to be at the polls before the voting commences, and if any inspectors or managers are absent see that a good Democrat takes his place. This is very important.

* * * * * * *

By order of the Congressional Comt.

A. J. SYKES,
Chairman.

In some cases telegrams were sent by the same committee to the inspectors to the same effect of the yellow circular. (Record, p. 129.)

In other cases lawyers called in behalf of the contestee, expounded the law, and induced the inspectors to reject the ballots after they had been cast and received.

but if the ballots were illegal and such as should have been r
this fact is, perhaps, immaterial.

The fact that such ballots were received and counted when th
no such interference is quite significant as indicative of how th
regarded in other precincts.

WERE THE BALLOTS ILLEGAL?

It is claimed that the rejected ballots were in violation of the
ing statute of Alabama, as cited and had printed by contestee
argument.

AN ACT to amend section 274 of the code of Alabama.

SECTION 1. *Be it enacted by the general assembly of Alabama*, That section 2
code of Alabama be amended so as to read as follows:

The ballot must be a plain piece of white paper, without any figures, m
ings, characters, or embellishments thereon, not less than two nor more than
one-half inches wide, and not less than five nor more than seven inches long,
must be written or printed, or partly written and partly printed, ONLY the
the PERSONS for whom the elector intends to vote, AND must DESIGNATE the o
which each person so named is intended by him to be chosen; and any ball
wise than described is illegal, and must be rejected. Approved February 12,

The legislature of Alabama had prescribed the mode of c
Presidential electors as follows:

On the day prescribed by this code there are to be elected *by general ticket*,
of electors, for President and Vice-President of the United States, equal to th
of Senators and Representatives in Congress to which this State is entitled at
of such election.

The following statutes of Alabama may be material:

AN ACT to amend section 276 of the code of Alabama.

SECTION 1. *Be it enacted by the general assembly of Alabama*, That section 2
code of Alabama be amended to read as follows: One of the inspectors must
the ballot folded from the elector, and the same passed to each of the other in
and the ballot must then, without being opened or examined, be deposite

ation of the number of votes each person receives, and for what office he receives them; and if two or more ballots are found rolled up or folded together, so as to induce the belief that the same was done with a fraudulent intent, they must be rejected, or if any ballot contain the names of more than the voter had a right to vote for, the first of such names on such ticket, to the number of persons the voter was entitled to vote for, only must be counted.

Approved February 13, 1879.

(Acts Ala., 1878-9, p. 73.)

The ground on which the inspectors rejected the ballots and were advised to do so at the time was virtually abandoned at the argument, and the latter part of the statute was then relied upon as the only valid ground for the rejection.

It is claimed that the ballots had on them more than the names of the persons for whom the elector intended to vote and what was an improper designation of the office for which each person named was intended to be chosen, and operated as a distinguishing mark.

The committee are of the opinion that the ballots were wrongfully rejected, and should be counted for contestant.

The paper used for the ballot *was* "without any figures, marks, rulings, characters, or embellishments," and then there was attempted, in the opinion of the committee, to be printed on it only the names of the candidates and what was designed as only a designation of the offices for which each person was intended to be chosen.

It is objected that the ballot does not correctly designate the office, under the Alabama statute cited, as the electors were to be elected on a general ticket; and it is contended that what was written in designating the candidates as electors "State at large," "district electors," "1st district," "2d district," &c., did not designate any office known to the law. There is nothing in the law to prevent the selection of the electors, two at large and one of, and from, each Congressional district in the State. Such was done; in fact, each party did it. It is the usual and customary way in all the States. The statutes require it in many States to be so done. It will hardly be claimed that the office of electors was so designated as to make it uncertain what office was meant, and that this vitiated the ballot so it could not be counted for the electors on that account alone. If it did, it may not affect the candidate for Congress, as he was properly named and his office well designated.

It is sufficient that the words and figures were designed only to describe the candidates and to designate the offices, so as to express the intention of the voter. It cannot be justly charged that the designation was intended or improperly calculated to operate as a distinguishing device or mark. It is at best, as claimed, only what may be called an erroneous designation; but, if so, it cannot be said that an error of that kind was obnoxious to the statute.

The statute allows of all that may properly be used to express the intention of the voter as to candidates and the offices; and it manifestly did not undertake to prescribe the form or mode of, or kind of type to be used in, naming the candidates or in designating the office.

If there had been two persons of the same name, it would hardly be contended that they could not be distinguished by giving the residence of the candidate. Or, if there had been a John Doe and a John Doe 2d, and the latter had been a candidate, his name could be so written. Had the eighth district been printed *8th District* on the ballot, there is nothing in that which would have been a violation of the statute, although the numeral 8 is a "figure."

The two parts of the statute are distinct, and the clause, "without

figures, marks, rulings, characters or embellishments," has reference manifestly to the outside and to the inside of the paper, independently of the names of the candidates and the designation of the offices. Otherwise it would be impossible to write or print a ballot, as it would necessarily have "figures," "marks," and "characters" in it when written or printed.

A literal interpretation must be avoided if necessary to give effect to the general intent. The letter must give way to the spirit, and a reasonable construction adopted.

The word "figure" may mean a statue, an image, or the form of anything as well as a numeral. It had reference, perhaps, to the practice of numbering each ballot, as once was usual. So, a "mark" may be a punctuation mark merely. A "character" may mean a letter. It is manifest from the collocation of words used what evil the statute was intended to reach and prevent.

It is not necessary to go into any general discussion as to this class f legislation or as to its validity. The case does not call for it.

To sustain the objection made to the ballot by contestee, would shock both the moral and the legal sense of every fair-minded man.

My conclusion is that the course pursued was a perversion of the statute, and the objection was seized upon as a pretext and induced by outside manipulation.

In any event, it would seem that the part which relates to the candidate for Congress may be regarded as a separate ticket.

A New York statute once required State and county officers to be voted for on separate ballots. At an election held under that statute a large number of ballots were cast for "Cook, for State Treasurer," which had at the bottom of them "For County Judge, Ezra Graves." These ballots were alleged to be illegal and the election contested. The Supreme Court in passing on the question said:

> I have not been able, after the most deliberate consideration of the objection raised, to perceive that there is anything in it. The ballot for every office on a ticket containing the names of more than one officer must be regarded as a separate ballot. People *vs.* Cook, 14 Barbour 259, 299.

The case was carried to the court of appeals and there affirmed. The court said "the Speiman ballot, headed 'State,' had at the bottom 'for county judge, Ezra Graves.' Whatever effect this had on the candidate for county judge, it had none on the candidates on the State ticket." (People *vs.* Cook, 8 N. Y., 4 Selden, 68, 85.)

We refer incidentally to certain claims relating to certain precincts in

MADISON COUNTY.

The evidence tends strongly to show fraud and ballot-box stuffing in this precinct. It will warrant the rejection of the count and returns made by the inspectors. Contestee is returned as having received 142 ballots, and contestant 57. The count and return are impeached for fraud. Contestant has called 128 voters who swear that they voted for him. The other evidence tends to prove 155. (Record, pp. 208, 216, 206, 231, 174, 196, 197, 557, 190, 191, 192, 158.)

Rejecting the returns for fraud, and counting 128 votes proved to have been cast for contestant, according to the settled rule, will give him so many more votes. But, as this is not necessary in view of the case in other respects, I do not go into the evidence more at length as to this precinct.

As to Meridianville box No. 2 and Cave Spring, the evidence tends

to show that contestant is entitled to 65 votes more than were counted and returned for him for these precincts, and that at Flint precinct he lost 17 ballots net by the vote not being properly counted and returned. But it is not deemed necessary to state the evidence and proofs, as in the view taken of the case by the committee this will not affect the result.

I do not sustain the claim of contestee as to Courtland precinct, although there is some apparent irregularity in the action of the inspectors, &c., in their conduct as to the box.

CONTESTEE'S DEFENSE OR COUNTER CLAIM.

The contestee attempts to meet the contention of contestant, if proved, by the claim that illegal votes were cast for contestant by convicts, minors, non-residents, and non-registered persons.

The claim as to minors and convicts appears by the following tables, and the evidence is referred to in the same:

Minors who voted for Wm. M. Lowe, as claimed.

Page of record.	Number of minors.	Names of witnesses who prove these voters were minors.
896	2	J. W. Morgan.
892	2	A. D. Lewis.
893	1	A. D. Lewis.
814	1	R. C. Gamble.
894–899	4	William E. Blair and W. S. White.
956	1	S. S. Ives.
958	2	Shaler S. Ives.
961	3	Young A. Gray.
	16	

Convicts who voted for Wm. M. Lowe, as claimed.

Page of record.	Number of convicts.	Names of witnesses who prove these men were illegal voters.
894	3	W. E. Blair.
893	1	A. D. Lewis.
893–899	2	A. D. Lewis and W. S. White.
900–960	1	H. C. Hyde and J. M. Angel.
900	1	H. C. Hyde.
813–859	5	John N. Martin and Joseph A. Moore.
859	2	Joseph A. Moore.
859–860	1	Joseph A. Moore and C. B. Hayes.
859	2	Joseph A. Moore.
863	1	D. S. James.
872	1	S. T. Wert.
	20	

The claim as to non-residents hardly needs more particular reference. It is not sustained by proof.

Not finding either of the claims to be maintained by competent and credible evidence, I disallow them.

REGISTRATION.

Contestee does not set up a want of legal registration as vitiating the election in any precinct, but alleges that persons not registered had no right to vote, and that all votes cast by such were illegal, and must now

be rejected. His claim and references for proofs apppear in the following table, as presented by him in argument:

County.	Precinct.	Pages of record containing registration list.	Pages of record, poll list.	Number of votes cast.		Number of voters not registered.	Number to be deducted from Lowe's vote.	Number to be deducted from Wheeler's vote.	Difference, or total loss
				Wheeler.	Lowe.				
Jackson	No. 10, Bellefonte	704–708	691	44	130	56	42	14	
	No. 13, Berry's Store	713–716	694	49	123	81	58	23	
	No. 15, Hunt's Store	717–720	695	24	32	26	15	11	
	No. 17, Nashville	720–724	696	35	132	86	68	18	
Madison	Cluttsville	571–584	656	166	222	61	35	26	
	Madison X-Roads	584–592	658	50	111	32	22	10	
	Madison	610–625	659	169	324	116	72	44	
	No. 1, Meridianville	626–642	665	123	360	169	126	43	
	Whitesburg	645–655	668	175	223	113	64	49	
	Collier's	671–685	685	87	134	48	29	19	
	Triana	1218–1225	1215	84	336	275	206	69	
Limestone	Slough Beat	823–826	852	123	213	107	68	39	
	Mooresville	826–831	803	90	619	215	189	26	
	Shoal Ford	835–838	856	74	101	22	13	9	
Lauderdale	Oakland	926–929, 945–946	918	100	289	103	77	26	
	Florence	921–924, 939–944	911	252	406	280	173	107	
Colbert	Cherokee	428–436	439	124	134	59	31	28	
	Prides	414–415	442	44	63	14	8	6	
	Leighton	416–419	438	80	95	52	28	24	
	South Florence	420–427	441	13	165	38	35	3	
Lawrence	Courtland No. 1	1142–1154	1192	134	192	131	77	54	
	Courtland No. 2	1142–1154	1139	111	419	191	151	40	
	Mount Hope	1168–1171	1172	132	170	29	16	13	
	Landersville	1173–1177	1191	62	82	32	18	14	
	Hampton's	1179–1182	1182	24	43	21	13	8	
	Red Bank	1184–1186	1183	36	111	16	12	4	
	Avoca	1194–1196	1188	31	61	20	13	7	
	Wolf Spring	1194–1196	1187	25	112	42	34	6	
	Hillsboro'	1196–1198	1189	164	228	261	151	110	
				2625	5630	2698	1846	852	

Contestee's evidence does not show for whom many, if any, of t persons claimed to be non-registered voted. He has not called t persons themselves, but attempted, with little success, to prove it by thi parties. The instances proved by any competent or sufficient evide are very few and need not be stated, as they would not change the sult on any hypothesis presented or contemplated.

If found that enough illegal votes were cast to change the result, a it not appearing for whom they voted, the question would be whet the election should be declared void, or the vote distributed among t candidates, under the rule laid down in McCreary, § 298.

Contestee, for aught that appears, could have taken the evidence the witnesses themselves to establish their identity as the persons wh names appear on the poll-lists and to prove for whom they voted. T he has not done and no reason why not is shown.

Of course I do not hold as matter of law that such is the only m of proof allowable, while generally it is quite satisfactory, as the vo usually best knows, and his evidence is direct.

The law of Alabama as to registration involved needs first to be stat so far as deemed material.

By article 8 of the constitution, which will be found at page 14 the Code of Alabama, the qualifications of the voter are prescribed

being a residence of one year in the State, of three months in the county, and thirty days in the precinct.

2. By section 5 of the same article it is provided in these words:

The general assembly may, when necessary, provide by law for the registration of electors throughout the State, or in any incorporated city or town thereof, and when it is so provided no person shall vote at any election unless he shall have registered as required by law.

Statutes passed in May, 1875, provided for registration in the whole State (code of 1876).

§ 227. *Secretary of state superintends.*—The secretary of state shall superintend the registration of electors in this State.

§ 228. *Registrars and assistant registrars.*—The secretary of state, on or before the first Monday of May, 1875, or as soon thereafter as practicable, shall appoint one registrar in each county in this State, who shall appoint one assistant registrar for each voting precinct or ward in the county for which such registrars are respectively appointed: and such assistants shall, as soon as practicable after their several appointments, make a full registration list, as hereinafter provided, of all the electors in the precincts or wards for which such assistants are appointed respectively; and such registrars and assistants, before entering on their duties, shall take the oath of office as prescribed in section one, article fifteen, of the constitution of the State of Alabama, which oath may be administered by any officer authorized by law to administer oaths in this State, which must be filed in the office of the judge of probate of the county; and the assistant registrars are authorized to administer the registration oath, and it shall not be lawful for any other officer or person to administer the same.

§ 229. *To return list of registered electors.*—It shall be the duty of each assistant registrar to make a due and correct return of the list of registered electors made by him.

§ 230. *Place and manner of registration.*—It shall be the duty of such assistant registrars within the several precincts or wards for which they are appointed respectively, to make registration of the electors residing in such precincts or wards upon blank forms provided for that purpose, and shall not register in any other way or on any other form than that prescribed.

§ 231. *Oath of elector and how subscribed.*—Before registering electors, the assistant registrars shall cause each elector, who is qualified to vote under the constitution and laws of the State of Alabama, to take and subscribe an oath that he is a qualified elector under the constitution and laws of the State of Alabama, and the name of each elector must either be subscribed to such oath by the elector himself, or the same may be subscribed by the assistant registrar, but when signed by the assistant, it must be with the consent and direction of the elector so to do, which shall be evidenced by the attestation of the assistant registrar's name, written opposite to the name of the elector under the appropriate head on the prescribed form; and the oath shall be in the printed and written form at the head of the registration list prescribed by this chapter, and the names of the electors shall be subscribed to the same under the appropriate head prescribed for the same in such list.

§ 232. *Number and date of registration, residence, employment, color of elector, and name of employer.*—The assistant registrars shall write opposite to the name of each elector, under the appropriate head in such form, the number and date of registration, his place of residence, whether white or colored, his employment, and if he is in the employment of another, the name of such employer; and if the elector resides in any town or city, the street and number, or other mark or description, by which his place of residence may be identified.

§ 233. *Registration on election day, and certificate.*—The assistant registrars shall be present at the voting precinct, or ward, for which they are respectively appointed, on the day of election, to register such electors as may have failed to register on any previous day, in their precincts or wards, which registration must be done, in every respect, according to the form prescribed; and the assistant registrar shall furnish to each elector who may register on the day of election, a certificate of registration, which shall be in the following form:

I, ——— ———, assistant registrar, do hereby certify that ——— ——— has this day registered before me as an elector.

(Signed) ——— ———,

Registrar.

Which certificate, signed by the registrar, shall be sufficient evidence that such elector is registered; and in case such assistant registrar, for any cause, is unable to attend, or there be a vacancy in the office of assistant registrar for such precinct or ward, the county registrar shall appoint some competent person as assistant registrar for that day; and if no appointment be so made by 10 o'clock of that day, then the inspectors of election may appoint an assistant registrar, who may qualify and act as

precincts and wards separate from each other in arranging same for binding,
ing the whole of the originals for the county in one volume, appropriately
and the judges of probate of the several counties shall, as soon as such re
fully made, return the duplicates to the Secretary of State, who shall arrang
precincts, wards, and counties, and so cause the same to be bound in one or
umes, and in such style as he may deem advisable for convenient reference a
vation; and the registration books made out by the assistant registrars in t
precincts and wards shall be kept by them, subject to the inspection of the p
in which they shall make entry of all additional registrations made by them
ively, from time to time, and shall, not less than fifteen days before any g
special election held in the county, make a supplemental return to the judge c
in like manner as the first return.

§ 235. *Duty of assistant registrars to revise lists; how prepared and delivered t
probate.*—It shall be the duty of such assistant registrars in each year to m
vised list of electors for their precincts or wards, showing the names of
electors as shall be known to or be proven to them to have died or to have
from the ward or precinct, or to have become disqualified as electors by th
tion of any felony, and also of all such as have registered at and since the
tion; which list shall be prepared in the manner prescribed for the other
shall be delivered to the judge of probate not less than fifteen days before
eral or special election;* and in incorporated towns or cities having a popu
more than five thousand inhabitants not less than ten days before a general
election.

§ 236. *Not lawful to register within twenty days before election; special registra
returned and treated.*—It shall not be lawful to register any elector within tw
before, nor in any incorporated town or city having a population of more
thousand inhabitants within fifteen days before, any general or special elect
and all registrations made on the election day by any registrar appointed for
only shall be returned to the assistant registrar for that precinct or ward
certified, which shall be returned to, and be treated by, the judge of prob
made by the regular assistant registrars.* But in incorporated cities or to
ing a population of more than five thousand inhabitants any person who n
attained the age of twenty-one within fifteen days next preceding any gener
cial election, and who is qualified to vote under the constitution and laws of t
of Alabama, may be registered by the probate judge of the county on the day
tion in the same manner as is prescribed for the registration of electors; a
judge of probate shall cause the name of such elector to be entered upon the
tion list of the ward in which such elector shall reside, and shall issue to such
a certificate of registration as prescribed by section 233.

§ 238. *Books and blanks furnished probate judges for assistant registrars.*†—Th
tary of state is authorized and directed to obtain and furnish to the probate j
the several counties in the State the books and blanks necessary for the use of
eral assistant registrars; such blanks shall be printed and ruled on good pap

States, and the constitution and laws of the State of Alabama; that I am not excluded from registering or voting by any of the clauses in section three of article eight of the constitution of the State of Alabama, and that I am a qualified elector under the constitution and laws of this State.

No.	Date.	Name of electors.	White or colored.	Registrar's attestation.	Residence, by precinct or ward.	Employer's name and remarks.

I, ——— ———, registrar for said precinct (or ward), in said county and city of ———, do hereby certify that the above and foregoing names of registered voters, from number one to ——, inclusive, were duly registered by me according to law, between the dates of ——— and ———, in said precinct (or ward), and that each of said persons so registered took and subscribed before me the above and foregoing oath, on the days and dates set opposite to their several names respectively.

Witness my hand this —— day of ———, 18——.

———— ————,
Registrar.

§ 239. *Probate judges make out and file registration lists, furnish copies to inspectors, and post list.**—Each probate judge of the several counties shall, from the registration list of electors returned to their several offices, make a correct alphabetical list of the qualified voters of such county, arranged by precincts and wards, correcting and completing the same from the supplemental and revised returns of assistant registrars, which list, when so completed, shall be certified by the probate judge officially to be a full and correct transcript of the list of registered electors as the same appears from the returns of the registrars in his office; one copy of which list the judge shall deliver to the inspectors of election in each precinct or ward immediately preceding every election, and one copy of the whole list of registered electors in the county shall be posted at the court-house of the county ten days, and in incorporated towns and cities having a population of more than five thousand inhabitants five days, before the election.

§ 241. *Registration must be in precinct or ward.*—It shall not be lawful to register any person except in the voting precinct or ward in which such person is entitled by law to vote: and the assistant registrars, when they have no personal knowledge of the identity or residence of an elector, shall examine him under oath touching the same, which oath shall be administered by the assistant registrars.

A right of challenge is given at the polls.

Section 278 of the Code of Alabama is in these words:

OATHS ADMINISTERED BY INSPECTORS IN CASE OF CHALLENGE.

When any person offering to vote is challenged by any qualified elector, before such person shall be allowed to vote he shall take and subscribe an oath, which one of the inspectors of such election shall tender and administer to him, and which shall be in the following form:

STATE OF ALABAMA,
——— *County:*

I, ——— ———, do solemnly swear (or affirm) that I am a duly qualified elector under the Constitution and laws of the United States, and the constitution and laws of the State of Alabama, and that I have resided in the State of Alabama one year next preceding this election, three months in this county, and have actually resided thirty days in this precinct or ward (as the case may be) next preceding this day, and that I am twenty-one years of age, or upwards, and that I have not voted before on this day at any general or special election, at the place of voting, and that I have not been convicted of treason, embezzlement of public funds, malfeasance in

*As amended Feb. 7, 1877, p. 116, sec. 1.

office, or of any crime punishable by law with imprisonmen
ceny or bribery. So help me God.

And in addition to such oath, *if the person so challenged is*
of the inspectors to have the qualifications required by law, then
such person, before he shall be allowed to vote, to prove his
the State, county, and precinct or ward, in which he offer
some elector personally known to some one of such inspector
which oath shall be administered by one of the inspectors
form:

STATE OF ALABAMA,
——— *County:*

I, ——— ———, do solemnly swear (or affirm, as the case m
(here insert the name of the person offering to vote) for th
ceding this election, and that he has been a resident of this
months in this county, and that he has actually resided in t
the last thirty days, and I believe he is twenty-one years of
he has not voted before on this day, at any general or spe
God.

And upon such oath being duly taken and subscribed, the
ing to vote must be received and deposited, as other bal
And it shall be the duty of the inspectors to file all the oath
and when the election is closed, such inspectors shall forwa
age, to the judge of probate, who shall lay them before the
said county.

Contestant contends that a non-registered elec
under the laws of Alabama. His argument on th

Constitution provides: "The general assembly may, wh
law for the registration of electors throughout the State
city or town thereof, and when it is so provided no person
unless he shall have registered as required by law." What
"when it is so provided?" The word "so" qualifies and gi
It means manner or extent. It is equivalent to saying that
vide in that manner, or to that extent. That is, when the
to register as a necessary prerequisite before voting, then n
he shall have registered, as required by law. Is there any
bama which requires an elector to register before he can vo
tion of his vote after it is cast, because he has not registered
the qualification of electors is § 224, Code of Alabama [187
male citizen of the United States, and every male person
been naturalized, or who may have legally declared his inter
of the United States, before he offers to vote, who is 21 ye
shall have resided in this State 1 year, 3 months in the co
precinct or ward, next immediately preceding the election at
unless, within the disabilities imposed by the provisions of
elector, and may vote in the precinct or ward of his actual res
for all officers elected by the people." Who are the person
visions of this chapter? "Those who have been convicted
of public funds, malfeasance in office, larceny, bribery, or c
imprisonment in the penitentiary, and idiots or lunatics, sha
in this State at any election by the people." These are th
from voting. They are not prohibited because they have fail
they have been convicted of specified crimes, or are idiots,
sons are legal voters who possess the qualifications prescr
these qualifications? The elector must be a citizen of the U
clared his intention to become a citizen of the United Sta
must have resided one year in the State, three months in th
in the precinct, or ward. These are the only qualifications—
age. Not a word is said about registration. If the electo
mentioned in the statute he is a legal voter, and there is n
because he is not registered.

Section 278 requires persons who are challenged to take
set out. The elector is required to swear to age, residence,
at any other precinct on that day, and in addition to suc
lenged is not personally known to have the qualifications
prove his identity and residence in the State, county, preci
of some elector personally known to one of the inspectors
He is required to prove every fact but registration! Why is
registration? Because registration is not a necessary quali

What is the object of registration? It is to furnish evidence to the inspectors of who are legal voters. It is not conclusive, nor the only evidence. He may be challenged, although his name may be on the registration list, and he must then prove his qualifications by his own oath, and if he is not known to one of the inspectors to be a qualified elector, then he must prove his qualification by some elector known to the inspectors. If his name is not on the registration list, and he is challenged, he can prove his qualification in the same manner. When this proof is tendered, the inspectors have no discretion, but are compelled to receive his ballot, and put it in the box. The conclusion is that registration has not, in Alabama, been made a necessary qualification to vote.

There seems to be no decision of the State courts on the point raised, and the question becomes immaterial, unless the necessary basis of facts is first established. I am inclined, however, to the opinion that, under the constitution, and the statutes passed thereunder (both being in harmony), that registration was designed as a reasonable regulation, although not prescribed as a qualification.

The question is not free from doubt, but considering the object and purposes subserved by a system of registration, I am inclined to so hold.

It is quite doubtful whether the law of Alabama renders void a vote of a non-registered elector when once cast and received. But for the purposes of the present case I may safely assume that registration was intended as a prerequisite, and so regard it.

Analogous questions were discussed in the case of Finley *vs.* Bisbee in the Forty-sixth Congress, and in Curtin *vs.* Yocum in the Forty-sixth Congress. They furnish, however, no substantial authority beyond the general doctrine discussed, as the constitution and statutes of those States differ materially from those of Alabama.

While, for the purposes of this case, I assume that registration is a prerequisite in Alabama as a reasonable regulation, I find that the proof does not sustain the charge made by the contestee.

The number of non-registered votes seems quite large under contestees's allegations. And if the law of Alabama is as claimed, it seems quite strange that, in a hotly contested election such as this was, and when the polls were managed and attended by vigilant officers and challengers, with a copy of the registration lists before them, about one-third of the whole number of electors in the precincts referred to were not registered.

The following circulars will show how the canvass was conducted. It appears that the Democratic party had in most of the precincts two at least, of the three inspectors, and in some cases all of them, besides the other officers. It must be presumed that the managers and challengers knew and could identify easily most, if not all, the voters in the precincts. I give the printed document, in full, as bearing upon this issue and affecting probabilities.

EXHIBIT D.

The following recommendations are made to the respective Hancock clubs in the 8th Congressional district of Alabama. Each club can judge which of the recommendations are adapted to their locality, and will, of course, only adopt measures as, in their judgment, seems to them expedient. A prompt and vigorous compliance with the plans they adopt is earnestly urged.

THE WHITE VOTE.

1. Make a list of white voters in each precinct not on the roll of its club.
2. Appoint a committee of one member to wait on each of these, and respectfully and cordially invite him to join us. The committee to report at the next meeting of the club.
3. If any one fails to respond to this invitation, send a committee of two other members most likely to influence him, who will urge him by every consideration that can be presented not by lethargy or inaction to desert his kindred and country in this effort of deliverance, and in some cases to tell him that his decision will, in the opinion

3. As soon as these lists are completed, each club will promptly forward a the county chairman, to the end that all may be collated and printed.

A copy of the county vote thus registered should be in the hands of our fri each voting precinct on the day of the election.

4. Make a separate list of those members of the club who think they hav fluence with the negro voters and detail each one to look after one or more lu or infirm white men in the precinct, and see that they vote.

5. There are a number of negroes who will not vote with us, but who will to stay away from the polls.

To look after these and see that they adhere to their promise, enroll youn men of the precinct under the voting age, before the day of the election, an each one to his negro.

A legitimate and peaceful election.

The foregoing suggestions contemplate winning the election by fairly placin boxes the most votes legitimately obtained. Systematic and energetic exerti do it. Each member of the Hancock clubs must have his part in the work a him and the club hold him to his full performance.

Rioting before or at the polls, or race collision brought about by the whi deemed almost insane folly. We may carry the election by these means, but w not reap the beneficial results.

On the other hand, the colored men who go with us must be protected there all times. And while it is not expected that insolent aggression be submitte the white man, every consideration of patriotism and every hope of success effort we are making to establish the constitutional free government of our should lead our friends to avoid every occasion of disturbance; and if they n nately arise, then be sure they are in the right.

If we attend the meetings of the Radical party hereafter, each club in whos tory a meeting shall be expected shall promptly inform the county chairman end that he may order a proper attendance from the clubs.

It is of the first importance that the county chairman or central organization thoroughly informed of the progress of the canvass.

If our plans are or are not succeeding we must know it, so as to conform to stances.

THE ELECTION.

1. The club will use their influence to cause all persons employing Democrati to aid them to be present and vote.

2. Make a list of white men who from infirmity or other causes need bringing polls, and assign a member of the club to each one of these.

3. Appoint two challengers and furnish each with a copy of the list of vo census.

4. Appoint a committee of members who will exercise general superintenden see that the programme on each election day is carried out.

5. Use all lawful means to watch and keep to their promise those negroes wh agreed not to vote.

But above all things be careful in this to avoid intimidation.

PLAN OF CAMPAIGN.

1. The Hancock clubs for the election of all Democratic nominees will me less than twice a month; oftener when expedient, and in executive session closed doors.

2. It is desirable that our attention be concentrated upon *selected* negro vot secure the majority desired, and that the others be let alone.

Those selected for our efforts should be, not party leaders, office-seekers, or others who expect to make something out of the Radical party, but—

First. Those who have acquired property and pay taxes.

Second. Those whose relations to and standing with the whites is best.

Third. Those who are poorest and most dependent upon the whites.

Fourth. The weaker classes generally.

3. It is deemed best to operate upon the individual negro voters and to carefully avoid attempting to influence them in masses. To this end, when your register of negro voters is complete, submit it to your club, and require each member to select such negro or negroes as he can influence. Let such member be a committee of one for the purpose he has undertaken and report results to the executive committee of the club; these results to be registered and report when called for by the county chairman.

It is hardly probable that so many persons would openly violate the law or be allowed by sworn officers to do so. The penalty prescribed for the fraudulent voter is severe under the laws of Alabama, although it is said to be quite light comparatively as regards the officers of election. They had with them in each precinct, as must be assumed under the provisions of the law cited, full certified copies of the registration lists with the names of the electors alphabetically arranged thereon, and the assistant registrar of the precinct was required to be present at the polls with papers ready to register all electors who had not been registered prior to that day, and it may be assumed that he was present, or that some other person was appointed by the inspectors to attend to that duty in his absence.

The vigilance exercised generally is illustrated by what was done in regard to the so-called marked ballots already considered. Similar activity is probable in respect to the registration and challenging.

It is not now claimed or shown that any of those who voted were not in fact qualified voters and entitled to vote otherwise, or that any of them were challenged. No one of them is called as a witness to prove his identity or failure to register.

All this renders the claim of contestee very improbable. It would require proof of an indubitable character.

It is the settled law of elections that where persons vote without challenge, it will be presumed that they were entitled to vote, and that the sworn officers of the election who received their votes performed their duty properly and honestly, and the burden of proof to show the contrary devolves on the party denying their right to vote. (Report in Finley *vs.* Bisbee, Forty-fifth Congress.)

We call attention to the case of Perry *vs.* Ryan, 68 Illinois, 172:

Where a person votes at an election without having been registered and without any proof of right, if it does not appear he was challenged or any objection made to his vote, the presumption must be that he was a legal voter and was known to the judges of election.

In 83 Illinois, 498, where a registry law very similar to the law now under consideration was construed by that court, it was held,

The presumption of the legality of a vote in no way depends upon the omission to challenge or object to it, or any presumed knowledge of the judges of election, but it arises from the fact of its having been deposited in the ballot-box. When once deposited it will be presumed to be a legal vote until there is evidence to the contrary.

Now, let us see what the proof adduced is.

Contestee has procured and put in evidence certain papers certified to by the probate judges in five several counties respectively, purporting to be copies of the registration lists for the precincts involved, and also of papers called the poll-lists from the same precincts. His claim is that he produces certified copies of all the registration lists of these precincts, which show all the persons registered and qualified to vote in the same, and poll-lists showing the names of all those who did vote

as written down by the clerks at the election. By
papers in each precinct named in his table, cited here
as he says, and as witnesses who have compared t
names in the aggregate on the poll-lists which are no
tion lists, and he contends that it follows that they we
and their votes illegal.

The minority of the committee, in their report (p
Finley, an analogous issue, said that "the evidence re
inadequate, being altogether *inferential*." But we go

Now, in order to have this proof satisfactory and su
least be shown by affirmative, competent, and credib
the records contain copies of all of the original and su
of registration made out by the registrars and assista
1875 and before the election of November 2, 1880, toge
were made on election day at the polls by the assist
those appointed in their place by the inspectors in th
registrar. Unless we have copies of all the regist
lists, we have not got the proper basis for comparison

We must next have all of the requisite poll-lists
properly authenticated.

Upon examining the copies certified to, we do no
few cases, what answers these requirements. I find
tracted or taken from books, not copies of the origi
or what purport to be copies of the same. I find
what names were once on them, and been dropped or t
of deaths, removals, or disabilities, or for other reas
ardson certifies, page 1225, that one volume is mi
County, and Judge Talley that part are lost in Jack
p. 798). Few of the lists are verified in the original b
the registrar, as required by statute, and as it must
would be if genuine. In some of the counties the copi
cover the whole period of time from 1875, the date of
tion, to the day of election, and including the lists m
election under the law.

The papers copied, or purporting to be extracted fro
them in the form prescribed, with the appropriate h
and certifications, as they would be, if the genuine or
is such as to demand legal and strict proof.

I am not satisfied with that adduced. It is too loo
irregular, and so liable to error, mistake, and omiss
extrinsic evidence, which we have not got in its supp
cates of judges beyond that of copies of papers give
to meet counter-evidence and presumptions.

I do not mean to intimate that any of the judges
knowingly make or give false certificates, or intentio
lists. But when we find, as we do, proofs that registrat
kept loosely and not bound up in books, as the law requ
lost and not to be found, some of them made up sinc
held, many of them not covering the whole period o
few of them answering in form or substance the requir
the papers furnished are not entitled to full credit
judges have been examined as witnesses, but they ha
the needed evidence that the lists produced are all
turned into their offices, and supply other facts needed
and exclude certain reasonable hypotheses.

(See evidence of Judge Harroway, pp. 906, 907; Br
Briggs, p. 884; Judge Steele, p. 1358.)

In one instance the judge certifies to a copy of a poll-list, and swears to it as if produced by him from the files at his office, when it was never there and comes into the evidence from other sources. (Rec., pp. 822, 854, 807–8.)

None of the registration lists furnished the inspectors and used at the polls are put in evidence. None of the registrars are called as witnesses to see whether all the registration lists taken at the polls were sent into the probate offices and when, or how many were registered at the polls and given certificates. It does not appear how many and what ones were challenged and took the oath prescribed, and then voted, as the oaths do not appear to be in the probate office.

The only evidence we have of the names of the persons who voted is in the shape of what purport to be certified copies of poll-lists found in the office of the judges of probate. How they came there, or when deposited, does not appear, save as a presumption of fact. It was the duty of the inspectors to certify and sign the poll-lists and send them in with the returns, and they are required to be left and kept at the probate office. An inspection of the copies produced shows that most of them do not contain the certificate of the inspectors as required by law, and they have no verification or identification therefore as genuine poll-lists, and cannot be regarded as proof. In some cases a presumption of fact may do. But on a controverted issue like this that presumption is of light weight.

In the three precincts of Limestone County embraced in the claim there are no poll-lists which appear to have been returned at all. Contestee has put in evidence three papers sworn to by one of the inspectors, in each case as the poll-list, and purporting to be signed by the three inspectors. But as they never sent them to the probate office, as required by law, and no reason or explanation for the omission is given, we do not regard them as proof, or as worthy of credit. The conduct of these inspectors is the subject of grave distrust, and the alleged discrepancies so great that the rejection of this evidence is fully warranted. There is a strong probability at least that there was fraud and manipulation on the part of the single inspectors respectively who produced the lists. Neither one of them is supported by the evidence, or even proof of the signatures of the other inspectors, as they are not examined as witnesses. They knew the law requiring the inspectors to verify the poll-lists, and must be presumed to know, also, that they were required to send them in with the returns. If they purposely withheld the poll-lists (and they do not pretend to the contrary) it may safely be assumed to have been for some fraudulent purpose. If they are guilty of fraud in that respect, they would not be likely to stop short of most anything else. Contestee called witnesses to testify that they had examined the copies of registration-list produced, and the poll-lists referred to, and give lists of names which they find on the poll-lists and not on the registration-lists. I have compared the same papers to a considerable extent, and am enabled to say that these witnesses have testified with great recklessness, to say the least. I have gone over the list of names (given as not registered) in several instances. Besides some names which are on the registration lists in full, we find many which differ only in some particulars, there being such a correspondence as to indicate that they relate to one and the same person. In many cases the differences are very slight. The clerks at the polls manifestly wrote in great haste and carelessly, not getting or hearing the name as pronounced, with any accuracy. For instance, "Henry Stokes," is on the registration list, and "Henry Stocks" is written on the poll-list. The

surname "Quades" is written "Quarrels," while the initials are the same. (See illustrations, Rec., p. 1043–1045, 509, 515, 820, 819, 1358–1359.) And yet these persons are claimed and sworn to as among the non-registered.

The instances of this nature are so numerous and marked, among other evidences of haste and inaccuracy, if not that they have been manipulated and gotten into the probate court fraudulently in place of the genuine, as to render the poll-lists unreliable for simple comparison.

Besides this it is in proof that negroes go by different names, and often change their names, and that this is done by them generally and as a class, and that their residences are not always fixed and permanent, but they often change them. They may have registered in one precinct or county, and then moved into another, and remained long enough to get a right to vote there without getting on to a new register, while the constitution requires them to be only once registered in order to be allowed to vote. Some instances appear casually in the evidence, where such produced certificates of registry from other precincts and counties, show their right to vote.

It would seem that registration lists were not sent to the probate court in some instances; that one whole volume was lost in Madison County, and some lists in Jackson County; that poll-lists were not returned in many cases as required by law; and it is quite probable that more lists than are proved have been mislaid or lost. It is more probable that this is so than it is that so many persons not registered should vote and be allowed to vote fraudulently and without challenge. As electors could be registered at the polls, if not registered prior, and get certificates so easily, and if registered elsewhere could vote by taking the prescribed oath, there is a very wide field of probability to explain the discrepancies alleged between any particular registration list and poll-list produced. There are a very few instances where both the registration lists and the poll-lists of the same precinct are proved and appear to be regular and complete. And in these the things suggested would and do explain the alleged want of identity in the names as written.

Unless the explanations suggested avail, it is apparent that large numbers on the registration lists did not vote at all, which is quite improbable in an election exciting so much interest and so hotly contested.

There is no list furnished which indicates or shows revisions made because of deaths, removals, and disabilities. And we don't know how many may have been stricken off by mistake or wrongfully, or how many had once removed after being registered and afterwards returned without their names being restored by the assistant registrar whose duty alone it was to do it. I have already adverted to the fact that being registered once in the State seems to answer the constitutional provision. No fault of the registrar in striking a name off or in omitting to restore it can deprive the voter of his right to vote if once registered.

To go into full details would occupy too much space. I will refer to only a few in addition to what has been already said.

In Limestone County the registration lists purporting to be furnished are manifestly not copies of original registration lists, but of some prepared for the occasion or taken loosely from some list or source not appearing. The poll-lists furnished in copy do not come from the probate court, but from one inspector by deposition. Each one a delinquent, and a violator of law and duty, without excuse or explanation shown, and subject to the gravest suspicions as to their motives in withholding the poll-lists from the returns made after elections. These three precincts alone involve 344 alleged illegal votes.

Registrar Martin, page 814, swears to loss of registration-list of 145 names.

In Florence precinct, while it is claimed that there were 280 non-registered voters, a challenger was present, who challenged vigorously over 100 electors for other reasons, but not one as not registered. Deposition of Jones, 881. In Triana precinct 275 non-registered are claimed out of a vote of only about 412 voters. Registration book No. 1, certified to as lost or mislaid, may account for this. Poll-list not signed by inspectors. As two witnesses were examined by contestee as to this poll, and were present challenging, it would have been well to have had a copy of the registration which was at the poll on the day of election to s ee whether the names were not in fact on that. We have got neither this nor any revised lists made by the registrars at any time since 1875. They must now be presumed to have been on, and that there is some mistake about the copies furnished by the judge or purporting to be.

In Lauderdale County it appears that no registration-book as required by law could be found. (Rec., p. 907.)

In Madison County, only one or two poll-lists are duly certified and verified as genuine.

Names are pasted on in printed slips instead of being written as the law requires.

Inasmuch as books of registration were not made and kept according to law, but it was found on loose sheets, the lists sent to each precinct on the day of election would have been the best or most satisfactory evidence of who were registered, and in no instance have we got them.

All of the evidence has been examined upon this issue of non-registration with an anxious desire to do the contestee and his alleged proof full justice. There seems to have been wanting on his part no amount of industry and professional skill in the peparation and argument of his case. But there is a conspicuous absence of evidence needed to establish his claim, if well founded. Even the judges of probate have failed to give such oral evidence as was needed to make the proof ot registration and poll lists satisfactory and complete. Their testimony is more significant for what was not asked in questions than for what it contains, especially after the objections thereto made and indicated at the time. There is also a total failure to call the assistant registrars and the inspectors and managers of elections, and to produce the books kept by the former, and the lists used at the polls, and to supply what is wanting in the papers produced to verify the same as all and accurate. They had been attacked by contestant, and his objection to the proof indicated in many respects. Presumptions of regularity and full discharge of duty in the respects now in question are balanced by other presumptions in favor of contestant, and much shaken, if not entirely overthrown, by evidence otherwise. With such proof as appears of looseness and irregularity in regard to the registration and poll lists, and their use, with no evidence from the electors themselves, or the registrars, or election officers, in the absence of the lists used at the polls, and upon the facts already shown in proof and already indicated, a comparison between the alleged lists produced fail utterly to prove the alleged charges of the contestee, and we feel constrained to find the issue against him.

We are asked to presume that all registrars did their duty, that judges of probate had all the papers which the law provided should be sent to them, that the poll-lists not signed were the genuine and true ones when they could be so easily manipulated without complicity on the part of the judges, in order to overcome all the presumption in favor of the

legality of the votes cast. I cannot do it in the fac
as appears to weaken those presumptions invoked

There is another consideration which ought t
strong reason at least why contestee should be
rules of evidence, if not as justifying the clai
voters not on the registration lists apparently,
jected after they were offered and deposited
objection at the time. Under the law of Alabar
any qualified voter, if not on the copy of regis
inspectors conducting the poll, and challenged, m
and on the spot, or take the requisite oath and
If he is not challenged, and is allowed to vote, w
failure of duty on the part of the registrar or ins
deprive the elector of his vote. The case would
the spirit, if not the strict letter, of section 2007 o
of the United States.

The remarks of Mr. Calkins in case of Curtin *v.*
in *all* respects applicable to this case, are perti
we quote them:

I call the attention of the members of the House especiall
by Judge Briggs in construing this law. He says: "By a
ring to the non-registered voter who presents himself at the
&c. "By accepting the vote without demanding the proo
the opportunity of furnishing it." To construe the law as
from Pennsylvania (Mr. Beltzhoover), makes it a mere tr
voter presumes, or he has a right to presume, that he is re
the precinct the time required by law; he has paid his tax
his house; he knows his name ought to be on the registry
ballot-box with the ballot in his hand. They take his ba
ballot-box, and afterward, when he cannot furnish the pro
is an illegal one, while if the election officers had called his
ment he could have supplied the evidence required and es
to the mode prescribed. But that evidence was not dema
that he had a legal right to vote, but the legal evidence of
of him by the election officers. And applying the same doct
"you cannot deprive the legal voter of the right to vote b
officer to do his duty," and it seems to me that the position is una

Regulations may be merely directory, and if th
the voter does not follow them they do not neces
when deposited and received.

The present case is a very strong one for the a
in the absence of any statute making registrati
where the system of registration is so imperfect a

In the record there appears to have been sund
istrate as to admission of evidence, &c., to which
The course pursued in this respect was manifestl
becomes now immaterial and unimportant. The
by the respective parties as to striking out evi
sidered and denied either as immaterial or not we

The alleged want of proper certification to the
Robert W. Figg has been rectified by his affida
cate by way of amendment.

I have paid no attention to attempted personal
ties and counsel not affecting the evidence.

My opinion, therefore, is that contestant was el
the seat, and I approve of the resolutions attache
Hazelton, while I dissent from some of the vie
report.

WILLIAM M. LOWE vs. JOSEPH WHEELER.

EIGHTH CONGRESSIONAL DISTRICT OF ALABAMA.

Mr. BELTZHOOVER, from the Committee on Elections, submitted the following as the

VIEWS OF THE MINORITY.

The undersigned are not able to concur in the report of the majority of the committee. The evidence shows that the election was conducted with perfect fairness on the part of Wheeler and his supporters. Indeed, there is no pretense that there was unfairness anywhere except at Meridianville and Lanier's precinct, and the most extraordinary efforts on the part of Mr. Lowe and his attorneys utterly fail to prove any fraud or unfairness at these boxes.

The voluminous character of the record has precluded nearly all the members of the committee from giving it that thorough examination which is necessary to a perfect understanding of the case, and, as a consequence, the report of the majority contains errors, to a few of which we will refer.

1ST.

The majority consider evidence introduced by Mr. Lowe which purports to prove matters which are not set up in the notice of contest, and refuse to consider evidence of matters proven by primary and uncontroverted evidence which are specifically set up and insisted upon in the answer of the contestee, these matters being such as the law required them to consider, and such as the majority of the committee have considered in other cases during this term of Congress.

2D.

Evidence which the majority in this report say is good and sufficient to establish the allegations of Mr. Lowe, they in the same report say is insufficient to support the allegations of Mr. Wheeler.

3D.

Certain witnesses give evidence regarding votes cast for both Mr. Lowe and Mr. Wheeler.

The evidence is precisely of the same character, the votes referred to are precisely of the same class, the evidence is given by the same witnesses, and in some cases it is given in the same breath and in answer to the same questions, and yet the majority of the committee count the votes for Mr. Lowe and refuse to count the votes which the proof shows were cast for Mr. Wheeler.

Worse than that, the report of the majority counts votes for Mr. Lowe upon statements of witnesses who swear they do not know anything of it personally, and they refuse to count votes for Mr. Wheeler the rejection of which is positively proven.

For instance: Mr. Harraway swears he does not know personally that

any Lowe ballots were rejected, but he swears that he does know that a Wheeler ballot was rejected.

On this evidence the majority count 4 votes for Mr. Lowe and refuse to count any votes for Mr. Wheeler.

Mr. Hill, who was illegally examined in chief during the last ten days, when the law only allowed evidence in rebuttal, testified and admitted that his knowledge that 22 Lowe ballots were rejected *was not based upon his actual knowledge, but it was based pretty much upon what a clerk told him.* This illegal evidence was taken at an unlawful time, so that Mr. Wheeler could not take evidence to refute it, and yet the majority, on such evidence, count 22 votes for Mr. Lowe.

We observe six other instances where Mr. Lowe's witnesses testify that ballots cast for Mr. Wheeler were not counted, and yet the majority of the committee refuse to give Mr. Wheeler the benefit of their evidence, although their evidence is precisely the same as the best evidence which is relied upon by Mr. Lowe, and although in one instance alone this failure makes a loss of over 50 votes to Mr. Wheeler.

4TH.

The majority of the committee accept and consider in substantiation of Mr. Lowe's allegations testimony which is secondary in its character, which is contradicted by Mr. Lowe's own witnesses, and which uncontradicted proof shows has been altered and forged since it went into the hands of Mr. Lowe's agents or attorneys. Mr. Wheeler made a proper and seasonable motion to have the forged evidence stricken from the record, but the majority of the committee failed to strike said forged matter from the record.

5TH.

The majority of the committee refused or failed to deduct votes of unregistered voters who illegally voted for Mr. Lowe, giving two reasons therefor:

1. Because they say registration is not required in Alabama.
2. Because there is no evidence which establishes definitely and identically for whom they voted.

The first position was so untenable that it was not assented to by all the members of the committee who voted for the majority report; and we hereafter will show it to be entirely without foundation.

The second position is positively contradicted by the proofs. In the limited examination we have been able to give to this point we find the names of over 500 of these unregistered voters who the witnesses swear positively voted for William M. Lowe. Some of this evidence is given by Mr. Lowe's witnesses, and by Republicans who swear that they saw the voters hand their ballots to the inspectors with Mr. Lowe's name on said ballots.

This evidence is positive, unimpeached, and unquestioned.

6TH.

The majority of the committee refused or failed to deduct illegal votes of unregistered voters who voted for Mr. Lowe at Courtland and other precincts, where the proof shows there was no person registered "*as required by law*," and consequently there was no legal registration, and Mr. Ranney, of the committee, gives as a reason for this action, and it is the only reason given, that "contestee does not set up a want of legal registration as vitiating the election at any precinct."

In making this statement Mr. Ranney was mistaken.

The following allegations are contained in the answer of the con-
stee:

Contestee alleges that at the following precincts of Lawrence County, viz, Court-
nd, Red Bank, &c., * * * 450 persons were allowed to vote, and did vote, for
ntestant, some of whom had no right to vote at the precincts where they cast their
otes, and others who voted at said precincts were not legal voters, and had no right
vote at all.

And contestee also alleges that said persons who voted for contestant
t said precincts "did not have a right to vote, for the reason that they
ad *never been registered as required by law.*"

It is here shown that the allegations of Mr. Wheeler emphatically
tate there was no legal registration at Courtland, or that he uses the
quivalent words that the persons who voted for contestant had "*not been
egistered as required by law.*"

The deposition of the probate judge of Lawrence County proves that
hese allegations are correct, and that there was no legal registration
t that precinct.

Under a similar registration law the majority of this Committee on
Elections decided in the case of Bisbee *vs.* Finley that eight precincts in
Brevard County should be rejected, and the proof in that case does not
how that the registration in those precincts was as incomplete and
llegal as it is shown in this case to have been at the precinct of Court-
and.

It is shown by primary evidence that none of the voters at Court-
and were registered as required by law, and that with regard to 189 of
hem, there was no pretense at registration, and yet the majority count
hese illegal votes for Mr. Lowe.

7TH.

The majority of the committee refused or failed to deduct the illegal
otes of non-resident persons who voted for Mr. Lowe, although the
roof is positive and uncontradicted that such persons voted for Mr.
owe, and that they were not residents of Alabama, but residents of
ther States.

The witnesses give evidence regarding this matter similar to the
ollowing:

John Wilson was not a resident of Alabama; he lives in Tennessee, and he never
retended to claim this as his home.

Wesley Phillips was a non-resident of the State of Alabama; he lives in Tennessee.

Squire Holsten was a non-resident of the State of Alabama; he lives in Georgia,
nd is an illegal voter.

John O'Neal was a non-resident of the State of Alabama; claims his home in
eorgia.

Berry Blair was a non-resident of the State of Alabama; lives in Tennessee; was
n illegal voter.

The witnesses also testified that all the non-residents whose names
hey gave voted for William M. Lowe, and all these names are found on
he poll-lists.

We could go on with these details, but space forbids.

It is evidence of this character which the majority of the committee
ays is "*not sufficient.*"

They also say: "*His* [Wheeler] *proofs do not sustain his allegations.*"

It appears to us that Mr. Wheeler proved conclusively that minors
oted for Mr. Lowe.

Mr. Lewis swears that Jack L. Armestead voted for Mr. Lowe; that

he had known him for ten years, and when he
not more than six or seven years old. He also
voted for Lowe; that he had known him for tw
first knew him he was not more than six years

On page 894 of the record, contestee proved
only eighteen years old. Also, page 899, that
twenty years old, and that Ephraim Springe
old. All of these persons the proof shows vo

This is the character of the uncontradict
Wheeler produces to show that minors voted f

8TH.

At Courtland precinct (the same place wh
there was no legal registration, and that 180
illegal votes for William M. Lowe) the prepo
cidedly shows that none of the inspectors wer
which sustained Mr. Wheeler, and Mr. Lowe's
reluctantly to admit that they violated the law
count the ballots *immediately on the closing of*
pretended to be occupied for nine hours in cou
and then put the counted and uncounted bal
box, and that one of their number took the
the next day, when a box was returned which
which they counted in an illegal manner, and
Lowe had received 419 votes, and that Mr. W
votes.

The proof also shows that this report was
admit that Mr. Wheeler was polling a large vot
polled by Mr. Lowe—and some of the witnesses t
polled two or three times as many votes as we

Mr. Wheeler has proven, by uncontradicted
dence of Republicans as well as Democrats, tha
for him at that box.

Mr. Wheeler's allegation with regard to th
proof, and we conclude that the box should no

We respectfully submit that we have neve
integrity of a ballot-box was more emphatic
peached, and where justice called louder for ac

9TH.

On the other hand, we now look at the actio
committee regarding Meridianville box No. 2.

Mr. Lowe in his notice does not ask to hav
therefore under the rules laid down by the com
er's defense they could not reject it, but above a
shows that there was no violation of law at thi

Mr. Forbes, Mr. Lowe's special friend, was pr
votes were counted strictly as provided by law
the inspectors made their respective reports, ea
received 57 and Lowe received 47 votes.

The proof shows that this vote was propor
same as it was at the election three months pre
governor was: Cobb, Democrat, 42; Pickens,

The testimony of Mr. Trewhitt, Mr. Roper, a

officers of the election which we are now considering, and whom the proof shows to be gentlemen of high standing, shows that the vote was counted as it was cast, and that no fraud could possibly have been practiced at these polls.

The majority of the committee cite against the sworn report of officers, and against the evidence of men of high standing and character, the testimony of two colored men, of whom one is impeached by the direct testimony that his character is so *bad that he is not worthy of belief under oath*, and both are impeached by their own contradictions, and by credible testimony of other witnesses. But in addition to all this, the evidence of the contestant is not of a character to justify the committee in receiving it to prove that there was any fraud or unfairness at this box, and taking all the proof together it shows no ground for its rejection.

The record also shows that, during the ten days allowed by law for evidence to be taken for contestant in rebuttal, Mr. Lowe's attorneys served a false notice upon Mr. Wheeler, stating they would take evidence of some fifty-five witnesses at or near Pleasant Hill.

This notice designated no definite place, and Mr. Wheeler caused a demand to be served upon them, asking for more specific information regarding the locality where the evidence would be taken.

This polite and proper request was not complied with.

Mr. Lowe's attorneys went to a place seven miles from Pleasant Hill and proceeded to take evidence *ex parte*.

After some twenty witnesses had been examined in this way, an attorney employed by Mr. Wheeler succeeded in hunting down this secret place of taking evidence; but even then, after finding the commissioner, he was positively refused the right to cross-examine witnesses.

Worse than that, the record shows that Mr. Lowe's attorney (a nephew of Mr. Lowe) wrote down the evidence himself, and wrote it falsely.

By such methods there have been produced 55 depositions which purport to show that 55 men voted for Mr. Lowe.

Upon these illegal and fraudulently obtained and criminally conducted proceedings, the majority of the committee count 55 votes for Mr. Lowe.

This box will be discussed more fully hereafter.

10TH.

At Lanier's box the evidence shows that it was impossible for any fraud to have been practiced by any one in the interest of Mr. Wheeler.

Mr. Lowe's friend swears they could not have counted the ballots in the shop where the election was held, and he swears that he "took charge of the box," and carried it to the store of Deputy United States Marshal Lanier, who was appointed to take charge of the election by Mr. Lowe's friend, Marshal Sloss.

The box remained locked up in the side room of Mr. Lanier's store for about an hour, and Mr. Lanier, who was a Republican, swears that no one could possibly have had access to it while it was there.

The majority of the committee, however, reject this box without a request to that effect in the contestant's notice, and then, still without a request, and without a particle of legal evidence, count for Mr. Lowe 128 votes, and give Mr. Wheeler none, although 142 votes were cast and counted for him, and Mr. Lowe's own witness swears that some 30 votes were cast for Mr. Wheeler.

We call attention to these things to show that the honorable gentle-

do not show that the witnesses were sworn. One hundred and
without any pretense to a certificate of a commissioner, and s
them have no legal signature. Yet upon such fugitive papers
jority of the committee conclude to deprive a fellow-member of
in Congress.

The record shows that the vote, according to the official retu

For Joseph Wheeler.....
For Wm. M. Lowe.....

Majority for Joseph Wheeler.....

Mr. Wheeler's election is contested on the following grounds

1. The contestant claims that 525 votes were cast for him, v
claims were illegally excluded from the canvass, by the inspe
election, in fifteen different precincts, as follows:

Big Creek.....
Chickasaw.....
Courtland.....
Danville.....
Decatur.....
Elkmont.....
Falkville.....
Florence.....
Green Hill.....
Huntsville.....
Kash's.....
Madison.....
Meridianville (No. 1).....
Owen's Cross-Roads.....
Poplar Ridge.....
Russellville.....

2. Although the contestant does not demand it in his notice of c
the majority of the committee reject, for his benefit, the returns of

4. Although the contestant does not demand it in his notice of contest, the majority of the committee give him an addition of 10 to the votes officially returned for him from the precinct of Cave Spring.

5. Although the allegation in the notice of contest does not justify it, and although Mr. Lowe's proof on the point is secondary, and conflicting, and contradictory, and although the proof regarding Mr. Wheeler's votes at that poll are precisely the same as the proof regarding Mr. Lowe's votes, the majority of the committee count 76 votes for Mr. Lowe at Flint precinct, and they refuse to count any votes for Mr. Wheeler.

The returned vote being changed in accordance with these claims, the following is presented as a statement of the result:

Wm. M. Lowe	13,456
Joseph Wheeler	12,609
Majority for Wm. M. Lowe	847

The contestee denies most of contestant's allegations, and on the other hand insists, in his answer to the notice of contest, that the following votes were illegally cast for the contestant, and demands their rejection by the House of Representatives:

1. Ballots illegal in form, including 1,294 ballots which are printed so as to be read as plainly on the back as on the face	3,028
2. Votes of unregistered persons, exclusive of those who voted at Courtland	1,200
3. Votes of non-residents	81
4. Votes of convicts	20
5. Votes of minors	16
Kinlock box	16
Courtland box No. 2 (contestant's majority)	308
	4,669

The contestee, accordingly, gives the following as a correct statement of the result:

Joseph Wheeler	12,808
Wm. M. Lowe	8,096
Majority for Joseph Wheeler	4,712

Mr. Wheeler also claims that the Greenbrier box which gave Mr. Lowe a majority of 223, and Pleasant Site box which gave Mr. Lowe 13 majority, and Frankfort which gave Mr. Lowe a majority of 17, should not be counted. Mr. Wheeler alleges that the polls were under the control of Mr. Lowe's friends, and that they were not kept open as required by law, causing loss of many votes to contestee; and also, that at Greenbrier there was illegal voting for Mr. Lowe, and that the inspectors destroyed the poll-lists, and by other means violated the law so as to deprive Mr. Wheeler of the means of proving the illegal votes which were cast at that box.

Mr. Wheeler also alleges that the entire vote of Madison County, which gave Mr. Lowe 676 majority, was illegally returned, and should be rejected. Mr. Wheeler also alleges that Triana box, which gave Mr. Lowe 252 majority, was not kept open as required by law, whereby contestee lost many votes.

The several claims of the respective parties will be considered in their order.

II.

BALLOTS ILLEGAL IN FORM.

The contestant's claim that 525 ballots offered for him in a fo scribed were illegally excluded by the inspectors of election, is m the contestee as follows:

(1.) The contestee insists that ballots of the form described we gal, and ought to have been excluded by the inspectors.

(2.) He denies that any such ballots were, in fact, rejected, and that the depositions by which the contestant attempts to prove rejection are inadmissible, because they were not certified by the before whom they purport to have been taken, nor reduced to in his presence.

(3.) He sets up a counter-claim, to the effect that 3,028 ballo vassed for the contestant were illegal, because they contained th ignations of eight offices unknown to the laws of Alabama, an of these 3,028 ballots, 1,294 were illegal, for the further reason tha were so printed that their contents were distinctly visible on the to the inspectors and bystanders, when the ballots were folded.

(1.) In support of his position that the ballots in controvers illegal and ought to have been rejected, the contestee urges the ing considerations:

The ballots were in this form:

FOR ELECTORS FOR PRESIDENT AND VICE-PRESIDENT:

STATE AT LARGE.

JAMES M. PICKENS.
OLIVER S. BEERS.

DISTRICT ELECTORS.

1st District—C. C. McCALL.
2d District—J. B. TOWNSEND.
3d District—A. B. GRIFFIN.
4th District—HILLIARD M. JUDGE.
5th District—THEODORE NUNN.
6th District—J. B. SHIELDS.
7th District—H. R. McCOY.
8th District—JAMES H. COWAN.

FOR CONGRESS—EIGHTH DISTRICT.

WILLIAM M. LOWE.

The following ballot is in the form prescribed by the laws of Alabama. It is similar in form to 12,808 ballots cast for the contestee:

For Electors for President

and Vice President of

the United States.

GEORGE TURNER.

WILLARD WARNER.

LUTHER R. SMITH.

CHARLES W. BUCKLEY.

JOHN J. MARTIN

BENJAMIN S. TURNER.

DANIEL P. BOOTH.

WINFIELD S. BIRD.

NICHOLAS S. McAFEE.

JAMES S. CLARK.

For Representative in

Congress from the Eighth

Congressional District:

JOSEPH WHEELER.

Two of the offices designated on the illegal ballots are offices of Presidential electors for the State at large, and two of the candidates named are candidates for those offices. Eight of the offices designated are offices of district electors of President and Vice-President, for eight different districts in the State; and eight of the candidates named are candidates for those offices.

The Alabama statute declares that—

The ballot must be a plain piece of white paper, without any figures, *marks*, rulings, characters, or embellishments thereon, not less than two nor more than two and one-half inches wide, and not less than five nor more than seven inches long, on which must be written or printed, or partly written and partly printed, only the *names of the persons* for whom the elector intends to vote, and must *designate the office* for which each person so named is intended by him to be chosen, and any ballot *otherwise than described is illegal and must be rejected.*

This law prescribes four distinct requirements for the ballot:

(1.) It must be a plain piece of white paper, without any figures, marks, rulings, characters, or embellishments thereon.

(2.) It must be not less than 2 nor more than 2½ inches wide, and not less than 5 nor more than 7 inches long.

(3.) It must contain only the names of the persons voted for and the designations of the offices for which they are "intended to be chosen."

(4.) The names of the candidates and the designations of the offices are to be written or printed, or partly written and partly printed.

If the legislature had merely prescribed the form of the ballot, without declaring those cast in any other form to be illegal, or commanding their rejection, then, of course, it would be a question whether the requirement of the statute, that the ballot must contain only the names of the candidates and the designations of the offices, is directory or mandatory. And to the decision of that question such authorities as McKenzie *v.* Braxton, Smith, 19, would be applicable. But when the law makes a ballot not cast in a prescribed form illegal and requires its rejection, there is no place for the question whether the statute is mandatory or directory. The ballot which is not in the prescribed form is *illegal*, and *must be rejected*, because the law in terms declares it to be illegal and commands its rejection.

The legislature of Alabama, exercising a power expressly conferred by the Federal Constitution, had prescribed the mode of choosing Presidential electors as follows:

On the day prescribed by this code there are to be elected, *by general ticket*, a number of electors for President and Vice-President of the United States equal to the number of Senators and Representatives in Congress to which this State is entitled at the time of such election.

Under this statutory provision there could be no choice of "district elector" for the "first district," or "second district," or for either of the other eight districts designated. The ballots in question each contained the designations of eight different offices unknown to the law; that is to say, the offices of district electors for the eight districts of the State. They were deposited in the ballot-boxes in violation of the requirement of the statute that the ballot shall contain only the names of the candidates and the designations of the offices.

It is submitted, as an incontrovertible proposition, that this statutory provision, for the choice of Presidential electors, makes the office of each and every Presidential elector an office for the State at large, and that the office of district elector is unknown to the law of Alabama. It is submitted, as a second incontrovertible proposition, that the ballots in question were ballots for two electors from the State at large, and for eight district electors, one for each of eight districts. If these two propositions are correct, so also must be the conclusion that eight of the offices designated on these ballots are unknown to the laws of the State, and that the designation of these eight offices was a violation of that requirement which excludes from the face of the ballot everything except the names of the candidates and the designation of the offices voted for, and that, therefore, under the law, it was the duty of the inspectors to reject these ballots.

This would be all different in the State of Massachusetts. For the law of Massachusetts contains a provision unknown to the law of Alabama. It is that—

The names of all the electors to be chosen shall be written on each ballot; and each ballot shall contain the name of at least one inhabitant of each Congressional district into which the commonwealth shall be then divided, and shall designate the Congressional district to which he belongs. (Pub. Stat. Mass., 1882, p. 90.)

The effect of this statutory enactment is that two of the Massachusetts electors are chosen from the State at large, and the others, although chosen by the people of the whole State, are *district electors*, chosen not from the State at large, but from the several districts. In Massachusetts the ballots now under consideration would be in exact conformity with the requirements of the law; and a Massachusetts statute, commanding the rejection of ballots containing designations of offices un-

known to the law, would not affect ballots like those alleged to have been rejected in this case.

For precisely the same reasons, ballots like these would be legal in the States of Iowa, Tennessee, Missouri, Virginia, and North Carolina.

If, then, the statutes of Massachusetts, Iowa, Tennessee, Missouri, Virginia, and North Carolina commanded the rejection of all ballots not fashioned in conformity with the requirements of law, they would not affect ballots like those alleged to have been rejected in the late election in Alabama, because such ballots would conform to the statutory requirements of those States.

The laws of Illinois, New York, South Carolina, Michigan, and Wisconsin, like that of Alabama, provide that the Presidential electors shall be chosen by "general ticket." The statutes of Mississippi and Nebraska provide that they shall be chosen from the "State at large." If the laws of these seven States provided, as do the laws of Alabama, that all ballots containing anything beyond the names of the candidates and the designations of the offices should be rejected, then ballots like those alleged to have been rejected, in the case now under consideration, would necessarily be rejected in those States. But no law, in either of those seven States, requires the rejection of ballots for the reason that they contain more than the names of the candidates and the designations of the offices. It follows, therefore, that in these seven States, as well as in the States of Massachusetts, Iowa, Tennessee, Missouri, and Virginia, these rejected Alabama ballots would have been good.

They would also have been good in all the other States of the Union except Alabama. For in none of the other States is there any statute requiring the Presidential electors to be chosen by general ticket or from the State at large. In all the other States the statutes provide that Presidential electors shall be chosen, but fail to determine whether they are to be chosen wholly from the State at large, or partly from electoral districts. They do not make illegal the offices of district electors, as does the law of Alabama. The case of Alabama therefore stands upon statutes peculiar to that State.

It is said that the objectionable matter on these ballots does not constitute figures, marks, rulings, characters, or embellishments, in the sense of the statute. Even if this be admitted for the sake of the argument, it does not meet the objection now under consideration, which is not that they were fashioned in violation of the clause of the statute prohibiting figures, marks, rulings, characters, and embellishments, but that they presented a violation of that clause which provides that the ballot shall contain only the names of the candidates and the designations of the offices.

But to ascertain whether these ballots did have distinguishing marks, let us refer to the evidence of the witnesses whom the contestant introduced, and by whom he claims to have proven the rejection of these ballots.

Mr. Hopkins, a witness for the contestant, testifies (see bottom of page 131 and top of page 132) that the ballots which he says were rejected could be identified from the outside when folded four times.

His evidence is as follows:

Q. When folded in four thicknesses, could you see at a distance of three feet that that ticket had something on it besides the names of the persons voted for and the offices for which they were to be chosen?—A. Yes, sir; I could.

Q. Please examine the ticket and see if it is the ticket that you made an exhibit to your deposition.—A. Yes, sir; it is.

Q. Please examine those three tickets folded, and say if the
tickets that were rejected, and say if you cannot identify them
folded four times?—A. These tickets are similar to the tickets
being numbered, and I can designate them when the printing is
ticket folded in four thicknesses.

These ballots are in evidence, and it will be observ
the least objectionable class of Greenback ballots f
Ira G. Wood, a witness and supporter of Mr. Lo
of the election, testifies as follows regarding the bal
were rejected (see Record, page 304, near bottom):

Q. Your eyesight is a little defective and infirm without your
I can read large print; I do not do it, however, without my spe
Q. Can you see the words first district on that ticket (handing
Yes, sir.
Q. Can you see the words first district on it?—A. Yes, sir.
Q. Can you see the words first district on the back when fol
inside?—A. Well, I wouldn't know that unless my attention wa
Q. Could you read it if your attention was called to it?—A
my attention was called to it.
Q. Can you, when the ticket is open, read the words first
glasses?—A. Yes, sir.
Q. When the ticket is closed now, with the printing inside, c
backwards, when your attention is called to it, the words first
be willing to swear there was a D?—A. Yes, sir.

If feeble old men could identify the ballots, when
Lowe claims were rejected in the railroad towns, it
would have been impossible for such ballots as Mr. Lo
in evidence, and swear were used in Franklin Count
the scrutiny of the party managers.

The contestee, in his answer, denied the allegation
regarding the rejection of ballots, and the contestant
by legal evidence that any ballots were rejected by th
think that none of the evidence by which he attemp
facts is legal. The witnesses merely give their recoll
ject. Many of them made out returns one or more d
tion was over, and in many cases they admit that e
were made out from hearsay, and many of them show
that their entire knowledge on the subject is hearsay.
page 62 of the contestant's brief, he claims that 4 L
jected at Florence; but we think there is not a partic
tain this. He quotes the evidence of Judge Harra
Judge Harraway states that he knows nothing perso
On the same page of his brief he claims that 22
rejected at Green Hill. There is no legal evidence to
witness on whom Mr. Lowe relies (William H. Hill)
tom of page 1389, that he does not know that 22 ball
He admits that immediately after the election he ma
fore Commissioner Bone that 15 ballots were rejecte
admits that he knows nothing about it except what
there is no other proof regarding that box.
Again, Edward C. Lamb, page 150, testifies as follo

Q. Did you count these 42 ballots yourself?—A. No, sir.
Q. Then your knowledge—is it not true that your knowledge
simply hearsay?—A. No, sir; I seen on their tally sheets.
Q. And yet you swear that there were 42 votes rejected with L
without ever seeing them, and without ever counting them?—
aside there when they were recounted.
Q. Is it not true that you saw them all in a bunch?—A. Yes,
laying them down or counting them out.
Q. Is it true that you examined every ballot, and saw it ha
William M. Lowe?—A. No, sir.

Such evidence as this proves nothing.

The law of Alabama (see Code, par. 288, printed page 1215 of the record in this case) provides that all rejected ballots shall be rolled up by the inspectors and labeled as rejected ballots, and that they shall be sealed up together with the other ballots, and securely fastened up in the box from which said ballots were taken when they were counted. The answer of the contestee distinctly alleged that where votes for William M. Lowe were discarded, it was so stated in the returns made by the inspectors. In no instance did the contestant put these returns in evidence, or give any reason for not doing so. Nor did he put the ballots which he claimed were rejected in evidence, nor does the record show that he gave any reason for not doing so.

Furthermore, not one of the 49 depositions was in any way certified by any commissioner.

None of the depositions have any certificate of any kind whatever.

It is provided in the Revised Statutes of the United States as follows:

SEC. 127. All officers taking testimony to be used in a contested election case, whether by deposition or otherwise, shall, when the taking of the same is completed, and without unnecessary delay, *certify* and carefully seal and immediately forward the same, by mail, addressed to the Clerk of the House of Representatives of the United States, Washington, D. C.

The notary who took the so-called depositions of the witnesses named above took, in all, the depositions of 177 witnesses, a part as testimony in chief and a part as testimony in rebuttal. He certified none of the 177 depositions, except those of J. H. Bone, W. M. Lowe, R. H. Lowe, and J. H. Sloss. His only certificate is that which (itself irregular and insufficient) is affixed to the deposition of W. M. Lowe, the contestant, on page 1263, wherein he certifies (irregularly) the depositions taken under "the *notice* to contestee." Under that notice, which is printed on page 1264, only the depositions of J. H. Bone, W. M. Lowe, R. H. Lowe, and J. H. Sloss were taken.

The only certificates in the entire record which refer to the contestant's testimony are as follows: Page 205, a certificate of Commissioner Thomas C. Barclay, reciting that it is the certificate to the deposition of James Jones, John Kibble, Alex. Jamar, and George Ragland, taken at Lanier's. It is dated January 26, 1881.

Page 293, the certificate of Commissioner A. C. Bentley, who certifies to the deposition of 55 witnesses, whose names he gives, and none of which are the names of any of these 49 witnesses. It is dated April 1, 1881.

On page 338 we find certificate of Commissioner Archibald W. Brooks, which mentions eleven witnesses, none of whom are included in the 49 referred to. It is dated May 12, 1881.

On page 402 is the certificate of Commissioner Amos R. Moody, which is attached to the deposition of seven (7) witnesses, and it certifies to the depositions thereto attached, but none of the names are those of any of the 49 witnesses referred to. It is dated March 15, 1881.

On page 460 is the certificate of Commissioner E. P. Shackelford, attached to the deposition of W. W. Simmons, and on page 462 is the certificate of same commissioner, attached to deposition of Alex. Heflin. Both are dated March 11, 1881.

On page 1263 we find a certificate of Commissioner Robert W. Figg. It certifies to the depositions of the witnesses named in the notice to the contestee.

The certificate is dated March 16, 1881, and is attached to the deposition of William M. Lowe, and the notice also attached and referred to in

the certificate contains only the names of James H. Bone, William M. Lowe, Richard H. Lowe, and Joseph H. Sloss. (See page 1264.)

The next certificate is that of Commissioner William T. Farley, on page 1361. It is dated March 28, 1881, and purports to be, and is, attached to the deposition of twelve witnesses, all of whom are mentioned in the certificate.

The last certificate is that of Commissioner Robert Andrews, on page 1399. It purports to be a certificate to nine witnesses, all of whom are named in the certificate.

There is no other certificate in the record, except those attached to the depositions of the contestee.

The only proof of the rejection of these votes is to be found in what are claimed to be the depositions of T. W. White, 37; W. L. Goodwin, 42; N. Davis, 47; T. B. Hopkins, 130; L. Bibb, 137; G. W. Maples, 140; W. L. Christian, 143; R. J. Wright, 148; E. C. Lamb, 150; N. Whittaker, 153; W. G. Smith, 370; A. Gandy, 373; H. A. Skeggs, 376; J. Y. Ferguson, 382; W. A. Pinkerton, 339; A. G. Smith, 343; A. C. Witty, 346; W. McCulley, 349; J. E. Seal, 394; D. N. Fike, 397; T. C. Walker, 404; W. J. Gibson, 496; W. W. Simmons, 496.

The contestee objected to these depositions, at the commencement of the present session of Congress, on the ground that they were not certified according to law, and has persisted in that objection until the present time.

Again, none of these alleged depositions were reduced to writing in the presence of the notary.

The provision of the Revised Statutes of the United States is:

SEC. 122. The officer shall cause the testimony of the witnesses, together with the questions proposed by the parties or their agents, to be *reduced to writing in his presence* and in the presence of the parties or their agents, if attending, and to be duly attested by the witnesses respectively.

The corresponding provision of the judiciary act of 1789 is in the following words:

And every person deposing as aforesaid shall be carefully examined and cautioned and sworn or affirmed to testify the whole truth, and shall subscribe the testimony by him or her given after the same shall be reduced to writing, which shall be done only by the magistrate taking the deposition, or by the deponent in his presence.

The provision that the deposition must be reduced to writing in the presence of the officer is common to the contested election law and the judiciary act of 1789. It is obvious, therefore, that decisions of the Federal courts on the provision of the judiciary act for the writing out of the deposition will be authorities in cases which may come before this committee under the corresponding provision of the statute relating to contested elections.

In Bell *v.* Morrison, 1 Peters, 351, Judge Story, delivering the opinion of the court, held that, under section 30 of the judiciary act, a deposition is not admissible, if it is not shown that the deposition was reduced to writing in presence of the magistrate.

The same doctrine is maintained by the following authorities: Edmonson *v.* Barrett, 2 Cranch C. C., 228; Pettibone *v.* Derringer, 4 Wash., 215; Rayner *v.* Haynes, Hempst., 689; Cook *v.* Burnley, 11 Wall., 659; Baylis *v.* Cochran, 2 Johns. (N. Y.), 416; Summers *v.* McKim, 12 S. & R., 404; United States *v.* Smith, 4 Day, 121; Railroad Co. *v.* Drew, 3 Woods C. Ct., 692; Beale *v.* Thompson, 8 Cranch, 70; Shankriker *v.* Reading, 4 McL., 240; United States *v.* Price, 2 Wash. C. Ct., 356; Hunt *v.* Larpin, 21 Iowa, 484; Williams *v.* Chadbourne, 6 Cal., 559; Stone *v.* Stillwell, 23 Ark., 444.

This objection applies to the 49 depositions which it is claimed were taken in Huntsville before R. W. Figg, esq., during the forty days allowed by law for contestant to take testimony in chief; and to 110 depositions which purport to have been taken at Lanier's during the period allowed by law for contestant to take evidence in rebuttal.

The record does not show that any of these so-called depositions were reduced to writing in the presence of the officer before whom they purport to have been taken.

On the contrary, the proof shows this was not done. The evidence, page 1116, shows that these so-called depositions were taken down in short-hand, and that they were afterwards written out in long-hand in the absence of the officer, and page 1125 shows that important exhibits were attached to the depositions which the witnesses did not see.

The motions which are supported by affidavits should be sustained, and the 49 alleged depositions mentioned in said motions should be suppressed; the motion to suppress 110 alleged depositions taken at Lanier's should also be sustained, and those depositions should be suppressed.

The "Views of Mr. Ranney" contain the following statement:

> The course pursued in this respect was manifestly irregular. But this becomes now immaterial and unimportant. The various motions made by the respective parties, as to striking out evidence, have been considered and denied, either as immaterial or not well grounded.

If this merely means that the decision of the case, on its merits, by the Committee on Elections, involves a decision of these questions of evidence, and that therefore the duties of the committee on the subject are ended, the statement is accurate enough. But if the meaning is, either that the committee has formally acted on these questions of evidence, or that action by the committee, however had, concludes the House of Representatives, so that these questions "have become immeterial and unimportant" in the House, the statement is wholly erroneous. The House is the judge on this point, as on all others involved in the case, and the materiality and importance of these questions in the House is not affected by the action of the committee.

(3.) We now proceed to the consideration of the counter-claim set up by the contestee, to the effect that 1,294 ballots cast for the contestant were illegal, not only because they contained the designations of eight offices unknown to the law, but, also, for the further reason that they were printed on such transparent paper, and with such ink and type, that the contents were visible to the inspectors and bystanders, on the outside of the folded ballots.

The statutory provision, as we have seen, is that unless the ballot is "without any figures, *marks*, rulings, characters, or embellishments thereon" it must be rejected. Whatever else may or may not be embraced in the meaning of the term "marks," as here used, that term evidently includes any device or combination of devices which will enable either the inspectors, when they receive a ballot and pass it from hand to hand for deposit in the ballot-box, or the near by-standers, to distinguish it from other ballots. In this sense the term "marks" may include several things or elements. It may apply to a star, cross, line, or circle, or to any other printed form, or to a series or number of forms, placed on the exterior of the ballot, so as to enable the inspectors or bystanders to distinguish it from others. The ballot would, in that case, be *marked*. It would not be, in the sense of the statute, "without marks." It would fall within the prohibitions of the statute.

But if, by the use of such paper and of such type and ink, on the face

of the ballot, as to show the face, or a part of it, *through* the folded ballot, the inspectors and by-standers are enabled to distinguish it from others, then also the ballot is marked, in the sense of the statute, whether the *words* themselves are, or are not, *legible*, on the outside of the folded ballot. It is enough if they are clearly *visible*, so that the ballot may be distinguished from ballots of a different kind.

The following are exact representatives of 1,294 ballots, which are proved to have been cast for the contestant and counted for him, and are to be deducted from his vote. These ballots, when folded, are readily distinguishable by the inspectors and by-standers, not only from the ordinary legal ballot, the face of which is not visible through the paper on the reverse side, but also from each other.

These transparent ballots were used in mountain counties and precincts, where the law was not well understood, and where there was the least risk of detection and exposure of this cunning device for destroying the secrecy of the ballot. The following are the citations of testimony which show that 1,294 ballots of this kind were counted for the contestant, at thirty-four different precincts in the district:

Page of record.	Name of witness.	Name of precinct or box.	Number illegal ballots cast for William M. Lowe.
399	R. H Ransom	Waco	20
400	C. M Taylor	Mountain Spring	4
401	W. M. Smith	Newburg	38
401	P. Barker	do	.....
402	W. Burgess	Pleasant Site	60
740	A. J. Barker	Bellefont	71
742	J. F. Skelton	Hunt's Store	20
746	Robt. Skelton	Scottsboro'	157
749	F. M. Chandler	Berry's Store	85
751	N. H. Bridges	Bishop's	56
752	Wm. C. Hitch	Kirby's Mills	35
755	J. H. Young	Larkinsville	33
757	F. J. Robinson	Nashville	127
759	J. M. Reid	Collins	44
763	R. M. Seay	Hawk's Spring	38
767	J. J. Overdeer	Kash's	74
775	J. T. Gilbreath	Davis' Spring	38
807	J. H. Hundley	Mooresville	11
809	W. K. Rainey	Slough's	1
868	F. M. Reeves	Hartsell's	80
1002	J. Brown	Rock Creek	30
1004	W. C. McKenney	Wheeler's	36
1006	W. M. Turner	Cherokee	11
1017	John Askew	Saint's	50
1018	W. C. Summers	do	.....
1024	Fox Delony	Leighton	3
1113	G. G. Wiggins	Hillsboro'	90
1130	O. H. Reid	Brickville	19
1132	J. M. Gray	Red Bank	10
1160	L. P. Landers	Landersville	30
	R. A. Neely	do	.....
1162	M. S. Lindsey	Oakville	33
1166	W. H. Bridges	Mount Hope	154
1203	G. W. Ponder	Moulton	22
1348	O. H. P. Williams	Cherokee	36
1352	W. M. Turner	do	.....
			1,294

It is claimed that these ballots ought to be counted for Representative in Congress, if for no other candidate. This would be true, if the statutory provision had been merely that such names of candidates and designations of offices as should be placed on the ballots in violation of the law should be rejected in the canvass. But such is not the provision of the statute. The statutory provision is that if the ballots are not in the form prescribed, the *ballots themselves* shall be rejected.

It seems to us clear that these 1,294 ballots, which not only contained the designations of eight offices unknown to the law of Alabama, but were also *marked ballots*, and, for that reason, peremptorily excluded by a mandatory law of that State, were illegally counted for Mr. Lowe, and are to be deducted from his vote.

The question here presented is a new question. It was not considered by the Committee on Elections in the Mississippi case of Lynch *v.* Chalmers. The differences between the statutory provisions of Mississippi and Alabama, and between the ballots in the two cases, are such that a decision in one of the cases will not, necessarily, furnish a precedent for the other. The Mississippi statute is in the following words:

All ballots shall be written or printed in black ink, with a space not less than one-fifth of an inch between each name, on plain, white printing news paper, not more than two and one-half nor less than two and one-fourth inches wide, *without any device or mark by which one ticket may be known or designated from another, except the words at the head of the ticket;* but this shall not prohibit the erasure, correction, or insertion of any name by pencil-mark or ink upon the face of the ballot; and a ticket different from that herein prescribed *shall not be received or counted.*

As we have seen, the Alabama provision is that—

The ballot must be a plain piece of white paper, without any figures, marks, rulings, characters, or embellishments thereon, not less than two nor more than two and one-half inches wide, and not less than five nor more than seven inches long, *on which must be written or printed, or partly written and partly printed, only the names of the persons for whom the elector intends to vote, and must designate the office for which each person so named is intended by him to be chosen;* and any ballot *otherwise than described is illegal and must be rejected.*

The provisions of the Mississippi law applicable to the case of Lynch *v.* Chalmers, are: (1) That the ballot shall be without any device or mark by which one ticket may be known or distinguished from another, except the words at the head of the ticket, and (2) that a ticket different from that prescribed shall not be received or counted. The provisions of the Alabama statute applicable to the case now on trial, are: (1) That the ballot must be without marks, and must contain only the names of the persons for whom the elector intends to vote, and the designations of the offices, and (2) that any ballot otherwise than as described is *illegal* and must be *rejected.* In the Mississippi case the grounds of objection to the ballots were that certain printer's dashes separated different headings of the ticket. In this case the grounds of objection are that the ballots contained the designations of eight offices unknown to the law, and that they were so marked, by the use of peculiar paper, ink, and type, as to be readily distinguished from other ballots, even when folded. The differences between the two cases are too palpable to require or justify any comment.

What we have said is sufficient to show that these ballots are illegal; but there is other evidence in this case which makes their rejection still more imperative.

THE EVIDENCE SHOWS THAT MR. LOWE'S SUPPORTERS USED THE MARKED BALLOTS, TOGETHER WITH VIOLENCE AND TERRORISM, TO DESTROY SECRET VOTING.

The evidence shows clearly that the using of these ballots in the pre-

cincts where it is claimed they were rejected was f
pose of preventing a secret ballot.

It is evident that with these ballots secrecy was
such ballots could be identified in the hands of the

It is certain that when voters are abused, terror
for not voting as their leaders dictate, the weaker
before going to the polls with ballots different fro
their leaders.

It was distinctly charged in the answer, and prov
nesses, that the supporters of Mr. Lowe had unla
state of terrorism and alarm among the colored p
harm to their persons and property. (See record,
895, 896, 898, 900, 902, 904, 959, 960, 961, 962, 963, 96
999, 1000, 1001, 1002, 1020, 1021, 1022, 1023, 1024, 1
1072, 1075, 1076, 1079, 1081, 1082, 1085, 1089, 1091, 1
1109, 1111.)

This uncontradicted testimony of more than fifty
men of all parties and of both colors, shows that
harm, by ostracism, and by fear and intimidation,
have absolutely destroyed freedom of election amo
of colored persons in the eighth district of Alabama

A colored man, page 1079, swears that if colore
to their own choice nearly all would have vote
Wheeler ticket. They would have so voted had
threats of the Greenback leaders, and this same ch
is found on pages 1067, 1068, 1071, 1073½, 1075⅔,
1089¾, 1092¼, 1096, 1098, 1102⅔, 1110, 1112.

It is also in proof (see bottom of page 1095) tha
Peter Walker and John Bell, attempted to becom
legislature upon the Republican ticket, and these
drove them from the town and threatened to kill th

Also, on this subject, see pages 1066, 1070¾, 107
1087½, 1089½, 1091¾, 1092, 1096, 1098, 1102, 1109¾.

We might stop with the above, but in passing we
tion to the evidence of two of Mr. Lowe's witnesses,
and William Wallace.

These men were party managers for Mr. Lowe.
they required every man to carry his ballot at least
from his body. (See bottom page 224.)

Wallace says, page 234¾:

"I told it to every man. Now, I said, you hold your ticket so I c

Wallace also testified, page 223⅓, as follows:

Q. You thought it important to examine their wrist and see
up their sleeves?—A. Yes, sir; I did.

Q. And you examined each one in this way?—A. Yes, sir.
that voted the ticket.

Q. You examined each one of the 156 colored men?—A. Yes

Q. You examined their hands and sleeves to see that there c
A. Well, I did not feel of their arms and sleeves, but I exam
before I gave them their ticket.

We think the evidence shows beyond question tha
Greenback party was to prevent a secret ballot. M
supporters, and managers swear they examined th
and made them hold the ballot at least a foot and a
to prevent the possibility of their escaping the su
managers.

This was the plan adopted with colored men, but in localities where possibly objections might be urged to so close inspection of undercloth-ing, Mr. Lowe's managers adopted the plan of having the ballots marked so that they could without question identify the ballot in the hands of the voter.

We have examined the ballots, and cannot resist the conclusion that these ballots were issued to enable party managers to destroy the free-dom and purity of the *election*, and to *prevent secrecy of the ballot*, and to *place the voter* under *improper restraint or influence in casting his ballot.*

More than a year prior to November 2, 1880, this law had been con-strued by an eminent judge of the State of Alabama. His decision was as follows:

Transcript.

THE STATE OF ALABAMA,
Cullman County:

Before Hon. Louis Wyeth, judge of the fifth judicial court.

CHARLES PLATO } Contest of election.
vs.
JULIUS DAMUS. }

In this case Charles Plato contests the election of Julius Damus to the office of mayor of the town of Cullman, in the county of Cullman, claiming to have been elected to that office himself by a majority of the votes cast at the election held on the first Monday in April, 1879.

The respondent claims to hold the office under the certificate of election issued by the proper officers under the provisions of the "act of assembly to establish a new charter for the town of Cullman." (Pamphlet Laws of 1879, p. 304, section 9.)

On examining and counting the votes it appears that fifty-four of them were cast for the contestant, and twenty-seven for the respondent; of these fifty-four votes given for the contestant, fifty-two had printed on them at the top of the ballot the words "Corporation Ticket," and of the twenty-seven votes cast for respondent three had in like manner printed thereon the same words, and the question for me to decide is whether or not those words rendered the ticket on which they were printed illegal ballots, and such as must be rejected.

The act approved February 12, 1879, Pamphlet Laws, pp. 72, 73, requires that the ballot must be a plain piece of white paper without any figures, marks, rulings, characters, or embellishments thereon, * * * on which must be written or printed * * * *only* the names of the persons for whom the elector intends to vote, and must designate the office for which each person so named is intended by him to be chosen, and any ballot otherwise than described is illegal, and must be rejected.

The law under which the election now being considered was held, in section 4, Pamphlet Laws, 1879, p. 305, declares "that the election provided for in this charter shall be regulated by the general State election law."

The judicial officer of the State has nothing to do with the propriety of a statute. If not void by reason of a constitutional inhibition, the judicial duty is limited to their construction and enforcement.

These ballots had more than *only* the names of the persons for whom the elector intends to vote, or the designation of the office, and must be rejected because illegal. Such is the mandate of law, and so I must declare it.

It is considered, adjudged, and ordered that the election of Julius Damus, as mayor of the town of Cullman, in the county of Cullman, be confirmed, and that the con-testant pay the costs of this court.

LOUIS WYETH,
Judge, &c.

JUNE 9, 1879.

THE STATE OF ALABAMA,
Cullman County:

I, Julius Damus, clerk of the circuit court of said county, hereby certify that the foregoing is a full and complete transcript of the decision of Hon. Louis Wyeth, judge of the fifth judicial circuit, from the records of said court in a cause decided by said judge, wherein Charles Plato was contestant and Julius Damus respondent.

And I further certify that the circuit courts of Alabama are courts of unlimited and appellate jurisdiction, and are the highest courts of the State of Alabama except the supreme court.

Given under my hand and seal of office this third day of January, 1882.

[SEAL—STAMP.] JULIUS DAMUS,
Clerk Circuit Court of Cullman County, Alabama.

The numerous authorities which the contestee cit of his brief, conclusively show that Congress and the writers have uniformly held that, under such a law a ballots like those now under consideration are illega

1st. The law of Mississippi provides that all ballo "without any device or mark by which one ticket m tinguished from another."

This leaves room for debate as to whether the m were marks by which one ticket may be known or another.

The Alabama law provides that the ballot shall h *of the persons for whom the elector intends to vote an the office"*; therefore this law does not give latitud question.

The Alabama law and Pennsylvania law (see pa brief) stand alone in this, *that they alone prohibit a ballots but the names of candidates and designations of*

In the report of the case of Lynch *v.* Chalmers th page 11:

> It need, however, hardly be added that a line of carefully c States, in which such courts have undoubted jurisdiction, so f in principle, would go a long way towards settling a disputed in any State election law. In fact it may be said that it woul of Congress to follow the settled doctrine thus established.

On page 10:

> Where decisions have been made for a sufficient length of ti construing election laws, so that it may be presumed that t knew what such interpretations were, would furnish another gress should adopt them in Congressional election cases.

And on page 12:

> Had the opinion been rendered before the election of 1880, settled laws of Mississippi, we do not say but that it would h us that, though we might disagree with it in logic, we might low it.

Now, certainly, the facts in this case bring it wit here expressed.

The decision of Judge Wyeth was rendered June months before the election of November 2, 1880.

1st. It was carefully considered.

2d. The court had undoubted jurisdiction.

3d. It had been made for a sufficient length of tim beyond this, to use the language of Mr. Justice Cu 87, quoted page 11 of Lynch report, it was "*needful t of the right or title in question between the parties.*"

The committee in Lynch *v.* Chalmers say:

> What we have here remarked does not, of course, apply to ordinarily used on tickets, such as spread eagles, portraits, and be considered marks and devices of themselves, and not nec mechanical art of printing. The use of the latter would be co the statute in any aspect of the case, while the use of the form view of the law, ought to be restricted to an intentional or ma

We submit that this reasoning makes the Greenb obnoxious to the statute of Alabama.

The act amending section 274 is a remedial act. S says:

> The words of a remedial statute are to be construed largely to suppress the mischief and advance the remedy. It is by no

struing a remedial statute, it has been said, to extend the enacting words beyond their natural import and effect, in order to include cases within the same mischiefs.

Remedial statutes are liberally expounded in advancement of the object of the legislature. (Blakeney v. Blakeney, 6 Port., 109.)

A remedial statute must be construed largely and beneficially, so as to suppress the mischief and advance the remedy. (Sprowl v. Lawrence, 33 Ala., 674.)

Let us now see what was sought to be remedied by the amendment to section 274 of the code, approved February 12, 1879.

It is shown by the evidence, p. 1237 of the record, that at elections prior to November 2, 1880, the Democrats used ballots substantially in form to the exhibits above, that is, the exhibits on pages 1229, 1230, 1231, 1232, 1233, 1234, 1235, 1236, which have the words:

STATE AT LARGE.

District electors.

1st District—
2d District—
3d District—
4th District—
5th District—
6th District—
7th District—
8th District—

And one of which, page 1234, is almost precisely like the ballots which are rejected.

The evidence shows that at previous elections ballots were used substantially like the Weaver and Lowe and Hancock and Lowe ballots, and that the remedy sought was to prevent the use of the very ballots which the Greenback party insisted upon using.

The report of the majority even admits the correctness of our position on this subject.

We are to bear in mind these facts:

1st. The election preceding and nearest to November 2, 1880, when such ballots were used, or could by any possibility have been used, was the election of November, 1876.

2d. The first legislature of Alabama which was elected after the November Presidential election of 1876, proceeded to and did amend section 274 of the code, and did prohibit by the law they enacted the use of the very ballots which the contestant swears were used in November, 1876, and preceding elections.

This shows what was to be remedied.

We are also to remember—

3d. That Judge Wyeth construed the law on June 9, 1879, just as we construe it.

4th. That the contestant swears that the August, 1880, canvass was made mainly by attacking this law.

5th. That with all this before them, he and his party managers defied the law they had denounced, and printed ballots and placed in voters' hands ballots which were prohibited by the law of the State.

6th. That nearly 100 witnesses in this case testify that the Greenback party compelled men to vote their ticket by threats and terrorism, and that 40 witnesses (including men of both colors and all parties) swear that but for this system of terrorism exercised by the Greenback leaders at least half of the people who voted for contestant would have voted with the party which supported the contestee.

Considering all these things together, we see how necessary it was for contestant to have a ballot which could be distinguished by his party leaders, in order to keep the weaker classes in line and prevent them from secretly voting as they desired.

Q. State all the circumstances connected with the giving of the said ticket to you by the said Wallace Toney.—A. He handed me the ticket and told me to put it in the box as he had given it to me.

Q. State if it is not true that you do not know what ticket you voted, except from what Wallace Toney told you.—A. It is true.

Tom Smith, 1299:

Q. State all the names of the persons you voted for, and what offices they were candidates for, and when you voted.—A. I voted for Mr. Lowe and Mr. Garfield; *Mr. Lowe was running for President;* I do not know what office Mr. Garfield was running for on the 2d November.

Q. State what Wallace Toney said to you when he gave you the ticket.—A. Handed me ticket and told me to not let it touch my body anywhere.

Q. Was it open or folded?—A. Folded.

Q. State if it is not true that you don't know what ticket you voted, except from what Wallace Toney told you.—A. It is true.

Charles Arnett, 1308:

Q. State what time you voted last, who you voted for, and what offices they were running for.—A. I voted last year; I don't know what month; *I voted for Lowe for President.*

Tom Abrams, 1318:

Q. State the names of the persons you voted for, and the offices for which they were running.—A. I voted for *Mr. Lowe; he was running for the Presidency.*

Q. State if it is not true that you don't know who you voted for, except from hearsay, and can you read?—A. It is true; I can't read.

Jere Lanier, 1325:

Q. Whom did you vote for, and the offices for which they were running, and the last time you voted?—A. I voted for Mr. William M. Lowe; I can't tell who else were running; *Mr. Lowe was running for President;* last November.

Q. State if it is not true that you don't know what ticket you voted, except from hearsay.—A. It is true.

It is not the right of the contestant to ask that votes cast for him as a candidate for the position of Chief Magistrate shall be counted as votes cast for Representative in Congress.

Let us now turn to the depositions of the voters who swear that they did not know for what office the contestant was a candidate.

Bill Owens, 1275:

Q. State the names of all the persons you voted for on said day, and the offices for which they were running.—A. I voted for William M. Lowe; I did not vote for any one else; *I don't know what office he was running for.*

Q. Is it not true that you do not know what ticket you voted on said day, except from what Wallace told you?—A. Yes, sir.

Ruben Lankford, 1276:

Q. When was the last time you voted, for whom did you vote? Name all the persons you voted for, and the offices for which they were running?—A. I voted in November; I voted for Mr. Lowe; I do not know any other names, *nor what offices Mr. Lowe was running for.*

Q. Do you know, except from what Wallace told you, what ticket you voted and who you voted for?—A. No, sir.

Q. Was your ticket open or folded when he gave it to you?—A. Folded.

Nat Donegan, 1281:

Q. Do you know what office Mr. Lowe was a candidate for?—A. *I don't know.*

Q. Please state if it is not true that aside from what Wallace Toney told you, you do not know what ticket you voted and for whom you voted on November 2, 1880?—A. It is.

Q. Can you read; and was that ticket open or folded when said Toney?—A. Folded; cannot read.

Anthony Lipscomb, 1284:

Q. Do you know what office Colonel Lowe was running for?—A. *No.*

Q. Would you recognize the ticket you voted that day?—A. I have no knowledge except what I was told.

Q. It is true, then, is it not, that you do not know of your own knowledge; that is to say, aside from what you were told by said Wallace Toney, what ticket you voted on said day, or who you voted for?—A. Yes.

Q. Was said ticket open or folded?—A. Folded.

Wm. Mendum, 1287:

Q. State the names of all the persons you voted for, and the offices for which they were candidates, and when you last voted?—A. I voted for Garfield and Arthur and Willie Lowe. *I don't know what offices they were running for.* November 2, 1881.

Q. State if it is not true that you don't know what ticket you voted except from what Wallace Toney told you?—A. It is true.

C. Anderson, 1287:

Q. State the names of all the persons you voted for, and for what offices they were candidates, and when you last voted.—A. No person but Mr. Lowe. *I don't know what office he was running for.* I voted in November, 1880.

Q. State if it is not true that you don't know what ticket you voted except from what Wallace Toney told you?—A. It is true.

W. Weeden, 1288:

Q. Who did you vote for, and when did you vote, and for what offices were the persons running for?—A. I voted for Colonel Lowe; *do not know what office he was running for;* don't know anybody else that was running.

Q. Is it not true that you do not know what ticket you voted, except what said Toney told you?—A. It is true.

B. Lightfoot, 1289:

Q. State the names and offices for whom you voted.—A. Mr. Lowe was the only one. *I don't know what office he was running for.*

Q. Is it true that you do not know what ticket you voted, except from what said Toney told you?—A. It is true.

Cal. West, 1291:

Q. State the names of all the persons you voted for, and the offices for which they were candidates.—A. I voted for Mr. Lowe; *I don't know what he was running for.*

Q. Is it not true that you don't know what ticket you voted, except from what Wallace Toney told you?—A. It is true.

Chas. West, 1291:

Q. State the names of all the persons you voted for on said day, and the offices they were running for.—A. I don't remember but two, Mr. Lowe and Garfield. *Garfield was running for Congress, Lowe was running for the same.*

Q. Is it not true that you don't know what ticket you voted except what Wallace Toney told you?—A. It is true.

Cagy Kelly, 1292:

Q. State the names of the persons you voted for and the offices for which they were running.—A. I voted for Mr. Lowe and nobody else. *I don't know what office he was running for.*

Q. State if it is not true that you did not know what ticket you voted except what Wallace Toney told you.—A. It is true.

R. Farley, 1293:

Q. State all the names of the persons you voted for and the offices for which they were candidates.—A. *Mr. Lowe and Garfield, Greenbacker.*

Q. State if it is not true that you don't know what ticket you voted at the last election.—A. It is true. I voted the ticket I got from Toney, and don't know what it was

John Brown, 1294:

Q. State the names of all the persons you voted for, and the offices for which they were running, and when you last voted?—A. No one but Mr. Lowe that I know of; *I don't know what office he was running for;* I voted last in November, 1880.

Q. State if it is not true that you don't know what ticket you voted for, except what Wallace Toney told you.—A. It is true.

John Landman, 1294:

Q. State the names of all the persons you voted for, and the offices for which they

were running, and when you last voted.—A. Lowe was one and Garfield; *I don't know what offices they were running for.*

Q. Is it not true that you don't know what ticket you voted, except from what Wallace Toney told you?—A. It is true.

R. Smith, 1295:

Q. State all the names of the persons you voted for, and the offices for which they were candidates, and when you voted last.—A. Lowe was one, and Garfield another. *I don't know what offices they were running for;* I voted in November.

Q. State if it is not true that you don't know what ticket you voted except from what Wallace Toney told you.—A. It is true.

Tyson Moore, 1297:

Q. State the names of all the persons you voted for, and the offices for which they were candidates, and when you last voted.—A. William M. Lowe, Garfield and Arthur; Garfield was running for President; *I don't know what Arthur or Lowe was running for;* I voted in November.

Q. State if it is not true that you don't know what ticket you voted except from what Wallace Toney told you.—A. It is true.

G. Chapman, 1301:

Q. State the names of all the persons you voted for, and the offices for which they were candidates, and the last time you voted.—A. I can't state the names of all I voted for; I voted for Mr. Lowe for one; *I don't know what office he was running for.*

G. Adams, 1306:

Q. State the names of all the persons you voted for, and the offices for which they were candidates. What time did you vote?—A. Mr. Lowe is the only one I can recollect. *I don't know what office he was running for.* I voted in November.

Q. State if it is not true that you don't know what ticket you voted except from what Wallace Toney told you.—A. It is true.

Caleb Toney, 1307:

In November I aimed to vote for William M. Lowe; I didn't read the names of all I voted for; *I don't know the offices for which they were candidates.*

Q. Can you read?—A. No, sir.

Q. State if it is not true that you don't know what ticket you voted except from what Wallace Toney told you.—A. It is true.

Wash Lundy, 1308:

Q. When did you vote; for whom did you vote? State the names of all the men you voted for and the offices for which they were candidates.—A. I voted last year; I don't remember the month; I aimed to vote for Lowe; I don't remember the names of any except Mr. Lowe; *I don't know what office he was running for.*

Q. Is it not true that you don't know what ticket you voted on November 2, 1880?—A. It is.

Richard Toney, 1309:

Q. State when you voted last, who you voted for, and for what offices they were running.—A. November; I voted the ticket Wallace Toney gave me; I don't know what was on it.

Jim Lankford, 1313:

Q. Is it not true that you don't know who you voted for?—A. I know nothing except what I was told.

Q. State the names of the persons you voted for, and the offices for which they were running.—A. I voted for Mr. Lowe. I don't know what office he was running for.

Q. Can you read?—A. No, sir.

Mingo Lanier, 1317:

Q. State the names of all persons you voted for and the offices for which they were candidates.—A. I just voted for Lowe; *don't know what he was running for.*

Q. How do you know what kind of ticket it was?—A. I don't know, because I could not read.

Abram Brown, 1322:

Q. State who you voted for and the offices for which they were running.—A. Mr Lowe; *I don't know what office he was running for.*

gather up for the contestant 128 votes by means of these depositions, is a failure. If the contestant had in his notice of contest laid a foundation for claiming and proving these votes; if he had in fact proved them; if his depositions had not been inadmissible because not certified; if they had not been rendered inadmissible by the refusal of the notary, on the motion of the contestant, to permit the contestee to cross-examine the witnesses, then the contestant might have some ground on which to stand. But instead of proving that 128 votes were cast for him, he has only proved that 17 were cast for him, that is to say, he has proved 39 less than the number (56) given him by the precinct returns. The result is that instead of sweeping away the entire returns and then gathering up for himself 128 votes outside of the returns, so as to make the vote of Lowe 128 and for Wheeler none, he has reduced his own vote from 56 to 17, leaving for Lowe 17 and Wheeler 142.

In support of his attack on these polls, the contestant asserts that the inspectors were all Democrats.

But the requirement of the statute is that the county judge shall appoint "three inspectors for each place of voting, two of whom shall be members of opposing political parties, if practicable." This relates only to the original appointments. There is a further provision for a selection, by the inspectors themselves, to fill a vacancy at the polls. But there is no requirement, express or implied, that, in filling such a vacancy, the inspectors shall look to a representation of opposing political parties on the board.

Now, the provision for the original appointments of these inspectors is not mandatory, but is merely directory. There is no provision that the election shall be void upon failure to comply with the requirement. The fact that the observance of the requirement is made to depend on the practicability of making such appointments, of which practicability the appointing power must of course be the judge, negatives its mandatory character. But then, aside from that, there is in the nature of the provision, nothing to justify the rejection of a return for the reason that the county judge failed to give the opposing political parties representation on the board of inspectors.

Mr. McCrary correctly states the general rule, in sections 126 and 200, as follows:

> If, as in most cases, the statute simply provides that certain acts or things shall be done, within a particular time, or in a particular manner, and does not declare that their performance is essential to the validity of the election, then they will be regarded as mandatory if they do, and directory if they do not, affect the merits of the election.
>
> Unless a fair construction of the statute shows that the legislature intended compliance with the provisions in relation to the manner to be essential to the validity of the proceedings, it is to be regarded as directory merely.

But then, whether the provision for the original appointment was, or was not, a mandatory requirement that the opposing political parties should be represented on the board, it is certain that the provision for filling vacancies at the polls embraces no requirement, direct or indirect, express or implied, that the vacancies shall be so filled as to secure representation to the opposing political parties on the board of inspectors.

So much for the law. Now for the fact. The fact is that Horton, the inspector against whom the complaint is aimed, had long been a Republican, and there is no proof showing, or tending to show, that he would not have voted for a Republican candidate for the office of Representative in Congress at this election if there had been such a candidate.

The fact that he did not vote for the contestant affo
evidence that he was not a Republican.

It is true that the contestant's witness, Herizler
and 180:

Q. Did Frank Horton try to get people to vote the Democr
Frank Horton, I thought, was a Republican, but from his acti
anything; he just simply sat there and didn't say anything.
since that he was a Democrat.

Q. How did you find out he was a Democrat since the elect
my neighbors that Frank Horton was a Democrat.

Q. Was it not generally understood before the election that
A. Before the election I didn't know him at all.

Q. You are pretty well satisfied that the charge against Fr
A. Yes, sir. The box was not tampered with while the electi

Q. Have you any information that would lead you to belie
son, or the sheriff of this county, or the clerk, had any intim
was not a sound Republican?—A. No, sir; I don't.

Q. Have you any reason to believe, except the charges t
against Frank Horton, that he is not a Republican?—A. Well,
well, I have no reasons that he is not a Republican. He is a
tell me. I know nothing but what they tell me.

But J. F. Lanier says on page 561:

Q. Is it true that all the inspectors here are avowed Democr
Captain High and Mr. Baldridge are Democrats, but Frank
the Democrats in the last two elections, but always claims to

And on page 563 B. C. Lanier says:

Q. What is your knowledge of Frank Horton's politics?—A
can, but has acted with the Democrats in the last two electio

It is also suggested, as a ground for the impeachm
that there were eleven more ballots than voters.

Now, the fact is that the ballot-box did contain 1
the poll-list contained names, and the inspector
Wheeler's vote and 2 from Lowe's, because 9 Demo
Republican tickets were folded. This is shown on
ord.

The law of Alabama does not authorize inspecto
numerary ballots before counting out the votes cast
didates. In this respect it differs from the laws of
At the close of the polls the votes for the reject
therefore counted, and the statement of votes print
197 made out *first*. Afterwards the number of v
with the number of voters, and the supernumera
ducted from the vote of Lowe and Wheeler respect
this is to be found on page 177 of the record.

The law requires the inspectors to send up the
voters, duly certified. They obeyed the law in this
printed on pages 196 and 197 of the record. They s
names aggregated 188, and that the votes in the b
that the excess of votes over voters was 11; that
numbered 57 for Lowe and 142 for Wheeler; that
the supernumerary ballots from Lowe's vote, and 9
that the vote, so counted, stood: for Lowe, 55, and
the county canvassers overlooked the last paragrap
and counted for Lowe 56, and for Wheeler 142.
the contestant of one vote and the contestee of n
no other effect on the case.

The deposition of William Wallace, alias Wallac

to prove that 128 votes were cast for the contestant, and also to impeach the returns. His deposition is inadmissible, for the reasons which exclude the others. But he is, himself, impeached by W. F. Baldridge, on page 549, and by W. E. Jordan, on page 566. Baldridge's character is shown to be reliable by the contestant's witness, Hertzler, on page 179. The contestant afterwards examined 126 witnesses, and made no attempt to vindicate the character of Wallace.

In support of his attack on these returns the contestant also charges that there was delay in the opening of the polls and in the appearance of the registrar. Hertzler's assertions on this point are overwhelmingly answered by the contestee's witnesses, Baldridge, High, J. F. Lanier, B. C. Lanier, and Jordan.

J. Hertzler testifies, page 174:

Q. Why were not the polls opened at that box sooner?—A. They were not opened on account of the registrar not being there, and there was a difficulty among the inspectors as to the appointing a registrar. Mr. Baldridge, one of the inspectors, said that he wouldn't open the polls unless the registrar was there, while the others claimed that they could appoint a registrar; we had the code there, which read that if the assistant registrar wasn't there the inspectors could appoint a registrar who may qualify for that day, and that word Mr. Baldridge, the principal inspector, claimed that he didn't know that any one there could qualify; that that word meant—he held that word meant—that he would have to go before the justice of the peace or the registrar, who was in Huntsville.

Q. Is it not true that you endeavored to get the inspectors to open the polls before they did open them?—A. Yes, sir; we tried to get the inspectors to appoint a registrar and qualify him until the registrar came that was appointed; that Mr. Baldridge objected to; said that it couldn't be done, and finally Mr. Burwell Lanier, sr., the returning officer, said that if Mr. Baldridge, or any of the inspectors, appointed a man, that he would be responsible; that it was right, and then Mr. Baldridge did appoint Mr. McDonnell and put him right to work, but he was not qualified at all.

W. F. Baldridge, 548:

Q. State where you were on November, 2, 1880; and if you held an office that day, please state it.—A. I was at Lanier's precinct, Madison County; was one of the inspectors.

Q. What time did the polls open or what time were they opened?—A. The polls were opened formally a few minutes after eight o'clock.

Q. Were the polls opened by proclamation?—A. They were.

Q. Was there any delay in voting after the polls were opened?—A. There was about two hours.

Q. What caused the delay?—A. The registrar was not there, and it became necessary to appoint one; and after examining the code of Alabama, I found that a registrar could be appointed after ten o'clock. After consultation with the other inspectors, we appointed one.

Q. Who was appointed, and by whom was he appointed?—A. After applying to, and requesting George Allen, William Allen, and John Jordon and others, including Frank Hertzler, I finally obtained the services of Archibald McDonald to act as registrar.

Q. Did any one send for Wm. B. Matkins? If so, who sent for him and when did you send?—A. William B. Matkins being the regular appointed registrar, and not being present, I did, about nine o'clock, send one Napoleon Powell to the residence of said Matkins to ascertain the reason of his non-attendance. He lives about two and a half miles from Lanier's.

Q. Do you know why W. B. Matkins did not come to Lanier's when the polls opened? —A. He informed me that he had gone to Pond beat the day before; that his horse got loose, and was unable to get home that night, was the reason for his non-attendance at the polls in time.

W. H. High, one of the inspectors, 554, J. F. Lanier, the United States deputy marshal, 559, B. C. Lanier, 563, and W. E. Jordan, 565, corroborate the statements of Baldridge.

The contestant, in further support of his attack on the integrity of the Lanier returns, charges that twisted ballots were voted, and that the box was removed and tampered with before the votes were counted.

It is true that the law of Alabama requires the inspectors to proceed with the precinct canvass as soon as the polls close. But the facts were

door reaching from roof to ground. We could not have any light at all v
wind was stirring, and we could not have any fire on account of the smoke, th
no fireplace except the furnace used by the blacksmith; we tried in the mo
have fire, but had to let it go out.

Q. Would it have been practicable or even possible for you to have counte
ballots in that blacksmith's shop that night?—A. It would not have been pr
or possible from the fact that we could not have light or fire, and it was
cold to stay in there without fire.

Q. Was there any other shelter which you could have obtained for holding
tion than the place where you did hold it?—A. There was not.

Q. Did you count out the ballots at the most convenient place near the pla
the election was held?—A. Mr. B. C. Lanier's house was the most convenie
we could get, and he was the returning officer for said election.

Q. Who were present when the ballots were counted out?—A. John Her
supervisor; B. C. Lanier and James McDonald, clerks; W. E. Jordon, deput
William M. High, Frank Horton, and myself, inspectors; and Aleck. Kelly,
the only one present that was not an officer.

Q. Who called out the votes?—A. William M. High and myself.

Q. State how you found the ballots in the box, and state whether or not y
any ballots rolled or twisted together.—A. There were no ballots found in
that were rolled or twisted together. There were in two or three instances
three ballots together, not rolled or twisted, but in a condition as if they mi
slipped together in the shaking the box. With one exception there were tw
folded together that indicated they were voted together, and never more th
were found together.

Q. State the position of the three ballots which you say you found toget
They were folded separately, and might have slipped together in shaking the

Q. Were the three ballots you refer to as being found together in such a c
that they would fall apart without unfolding them?—A. Those that I took o
have done so.

Q. Were or not any ballots found together making such a bulk that they c
easily have been passed through the hole in the box through which the ball
passed as the voting took place?—A. There were none.

Q. You stated that you found two ballots in the box which were folded t
Please state what name was on these two tickets for Congress.—A. The b
which I have referred were folded together closely three times, and they we
ballots. There were other ballots that were folded so that they might ha
voted together.

Q. Whose name for Congress was on the other ballots you refer to as being i
dition indicating that they might or might not have been voted together?—A.

good large cracks between the planks, with large folding-doors that extended from the roof to the ground—no floor, no place for fire, only a forge, and was very disagreeable.

Q. Would it have been practicable or even possible for you to have counted out the ballots in that blacksmith shop that night?—A. No, sir; I think not, from the fact that the wind was blowing, and we could not have kept a lamp or a candle burning during the time.

Q. Was there any other shelter which you could have obtained for holding the election than the place where you did hold it?—A. None that I know of.

Q. When the polls closed, why did you not immediately count out the ballots?—A. Because we could not count them in the house in which we held the election, and could get no other place until after supper.

Q. What buildings are there in the vicinity of Lanier's voting place?—A. The blacksmith shop in which the election was held; John F. Lanier's store, about fifty yards from the shop; Mr. Lanier's residence about two hundred and seventy-five yards from the shop. These were the only buildings, except some cabins and out-houses and gin-house. The nearest other buildings are nearly a mile off, except a church, which is within one-half mile of the place.

Q. What place did you succeed in getting in which to counts out the ballots?—A. Mr. Lanier's parlor.

Q. How did you happen to go there?—A. By invitation. Mr. Lanier proposed if we would take supper with him that we could use his parlor afterward in which to count out the votes.

Q. Why did you not come back to the store to count out the ballots?—A. Because Mr. John F. Lanier said that we had had the use of his storehouse all day, and it was unreasonable to ask it that night; the registrar had used it.

Q. Was not Mr. Lanier's house the next nearest place where the votes could have been counted out?—A. It was.

Q. Where did you leave the ballot-box when you went to supper?—A. In the back or side lock-room of Mr. John F. Lanier's store.

Q. Who suggested your putting it there?—A. Mr. Hertzler, I think.

Q. Did you lock up the box in that room?—A. I locked the door of the room after I put the box into it.

Q. Who was with you when you locked the box in that room?—A. Mr. Hertzler.

Q. Did you go into the room to put the box into it?—A. I did not; I reached in and set the box upon a barrel beside the door.

Q. What did you then do?—A. I locked the door, and soon after myself, Mr. Hertzler, B. C. Lanier, sr., J. S. McDonald, and, I think, B. C. Lanier, jr., and perhaps some others, went up to Mr. Lanier's to supper.

Q. Who kept the key to the side room into which you put the ballot-box?—A. I did.

Q. What kind of a lock and door did the side room have; was it a substantially built door and a good lock, or what were they?—A. It is a strong lock and door.

Q. Was there any other way to get into that room except through that door?—A. There was another door through which freight was passed into the room, and which fastened on the inside with a bar, and could not be entered from without, except being first opened on the inside.

Q. Whom did you leave in the store when you went to the house?—A. Mr. John F. Lanier and several negroes.

Q. After supper, what did you do?—A. Mr. Hertzler, myself, Mr. B. C. Lanier, sr., and others came down into the store together. I unlocked the door of the side room and took out the ballot-box, and we went back to the parlor and counted out the votes.

Q. Did you find the ballot-box in precisely the same position as you left it?—A. I did.

Q. Do you think it possible that the ballot-box could have been tampered with while you was at supper?—A. No, sir; I do not.

Q. Do you know John F. Lanier?—A. I do, sir.

Q. What is his standing in this community?—A. It is good.

Q. From your knowledge of the character of John F. Lanier and his standing in this community, would you believe that he would be guilty of any dishonorable thing about elections?—A. I would not.

Q. State who went to Mr. Lanier's parlor with you.—A. Mr. Hertzler, William F. Baldwin, Frank Horton, B. C. Lanier, jr., J. S. McDonald, Walter Jordan, and Alex. Kelly. If there were any others, I don't remember them.

Q. State who first opened the box after the polls were closed.—A. Myself or Mr. Baldridge; I don't remember which.

Q. Where was the box when it was opened?—A. On a table in Mr. Lanier's parlor.

Q. Who were present when the vote was counted?—A. Wm. F. Baldridge, Frank Horton, John Hertzler, Walter Jordan, B. C. Lanier, jr., J. S. McDonald, Alex. Kelly, and myself.

Q. State how you found the ballots in the box, and state w
any ballots rolled or twisted together.—A. The box, as I rem
I remember through the day that I had to shake the box seve
lots in. They would accumulate under the hole in the cent
to shake them down, and there were no ballots found roll
There were several bunches of tickets found together, but t
more than three tickets together.

Q. You speak of three tickets being together. Were they
ner as to show that they were voted together, or were they to
as would indicate that they got together in shaking the bo
bunches that I am satisfied were voted together—three in one
There were others that might have been voted or may have got

Q. Was there any other bunch of three tickets together as t
—A. My recollection is that there were two other bunches of
together, but not folded together.

Q. Did you at any time find six ballots together in the box,
time come out of the box together?—A. There were not six b
the box at any time. Six ballots did not come out at any tim

Q. Are you perfectly certain that in no case either six or s
the box together?—A. I am perfectly certain that in no case
lots came out of the box together.

Q. Do you know whether or not there were windows in th
door was barred on the inside?—A. There are no windows
the door from the outside. I pushed against it, and I could not op

J. F. Lanier, 559, 560, 561:

Q. Where was the ballot-box put while the inspectors were
the side room of the store.

Q. What persons brought the box to your store?—A. I don
to the store. Captain High brought it in.

Q. What did he do with it?—A. He put it into the side roo

Q. What did he then do?—A. He took the key and went ou

Q. How many keys are there to your side-room door?—A. (

Q. Is there any way to get into that side room except thr
High locked?—A. There is another door to the room fastened

Q. *Was that door which was fastened on the inside fastened that*

Q. Was it possible for any one to have entered your side ro
was in there except by going through the door that Mr. Hig
breaking the front door.

Q. Did any one break down the front door?—A. They did n

Q. You having testified that no one broke down the front
by any possibility your side room could have been entered
Mr. High locked while the ballot-box was in there without yo
they could not.

Q. How long did you stay in the store after Mr. High and th
to supper?—A. About half an hour.

Q. Did anybody go into the side room during that half hou

Q. Did you leave anybody in your store when you went to
A. I did not.

Q. What did you do with the key to your store when you
put it into my pocket.

Q. Did anybody go into your store while you was at sup

Q. When you returned to the store who was with you?—A.
Hertzler, J. S. McDonald, B. C. Lanier, jr., B. C. Lanier, sr.,

Q. Who came in and got the box?—A. Captain High.

Q. Did you see him unlock the door of the side room?—A.

Q. What is Alex. Kelly's politics?—A. He is a Republican.

Q. If any one has stated that while you was at supper on N
two men go into your store by the door nearest to your f
statement true or false?—A. I am satisfied that no one went in
at supper.

Q. Did you send anybody to guard your store while you we

Q. State who it was, and what you told him to do?—A. It
I told him to go down and stay about the store until I came;
money out of the drawer that night.

Q. Did Henry Kibble go *into the store?*—A. *He did not.*

Q. Was Henry Kibble at the store when you came down?—

Q. Did you refuse to permit the officers of election to c
store? If so, why?—A. I did not make a positive refusal. I tol

business during the day to assist the register, and that they were making an unreasonable request of me.

Q. If you had suspended business during the day, from what source did the money which you left in the drawer, and that you sent Henry Kibble down to look after?—A. From sales on days previous to that.

Q. You stated that the door opening out of the side room, which is fastened by a bar inside, was fastened while the ballot-box was in there. Have you any special reasons for remembering that that door was fastened at that particular time, or do you state it because you habitually keep it fastened?—A. My reason is this: I had gone in there a short while before the box was put in that day and shut and fastened the door, and no one had gone in there from that time till the ballot box was put in, nor until the next day.

H. Kibble, 569:

Question. State your name, age, occupation, and where you lived on November 2, 1880.—A. Henry Kibble; about fifty years; house and farm hand; I lived with B. C. Lanier, right here.

Q. Did you see J. F. Lanier about supper time on the night of the election?—A. I did.

Q. Did he tell you to do anything?—A. He told me just about supper time, in the yard, if I could get the chance to come to the store and set upon the fence until he could come from his supper, and to hail him when he did come, so that he might know that I had been here.

Q. What did you do?—A. I did come down to the fence near the corner of the store and staid there until John F. Lanier came there.

Q. How long after J. F. Lanier told you to go to the store did you go to the store?—A. I come right off.

Q. How far from the store was you when he told you to go to the store?—A. About two hundred yards.

Q. Did anybody go into the store while you was there?—A. No, sir.

Q. Are you certain about that?—A. Yes, sir.

Q. Did you hear any noise in the store or see any light in the store while you was there?—A. I did not.

One explanation of the large vote cast for the contestee at this precinct, is that many colored Republicans having no Republican candidate for Congress preferred the contestee to the contestant. This is shown by the proofs.

J. Hertzler, a witness for contestant, 183, 188:

Q. I believe you stated yesterday that while the election was going on a crowd of colored men came up and voted, and that it was rumored or stated that the leader of these colored men had sold out, did you not?—A. I so understood the next day.

Q. You mean, do you not, by selling out, that this colored man had gone back upon the Republican party?—A. That is what I understood; that in that way this majority was brought about.

Q. Then on the next day after the election, you understood that this majority was brought about by a colored man inducing an entire club to vote the Democratic ticket?—A. Yes, sir.

Q. Isn't it true, Mr. Hertzler, that you would think, from your knowledge of colored men, that they would disposed to secrete the fact of having voted the Democratic ticket if they had been censured for it?—A. Well, I expect they would, likely.

Q. It is true, too, of your knowledge of the colored men, that very many of them have a very imperfect idea of the sanctity of an oath?—A. Yes, sir.

P. McDaniel, a witness for contestant, 212:

Q. It is true, is it not, that any colored man who wanted to change his ticket could do so as he passed through the little room before he got to the polls?—A. After he entered the door, why, if he saw cause to change, and was mean enough, he could change right in the presence of the officers there; he didn't change in our presence, though, where we could see.

Q. You say, then, if he was mean enough to do it he could change after he got in the room?—A. After he entered the door.

Q. And when they got in that room most of them stayed some five minutes, did they not?—A. Yes, sir.

Q. It is true, is it not, that some colored men voted the Democratic ticket, and one or two admit it, and the other men who voted the Democratic ticket are apt to deny t?—A. Well, I don't know, sir, of any one that we gave tickets voted the Democratic icket, and if they did it is not known to the general run of colored people. Any one

that voted the Democratic ticket the officers know could not have voted after they entered the room without changing inside the door.

Q. Is it not true that there is a good deal of feeling expressed by the colored men down there about men who vote the Democratic ticket and then conceal it?—A. Yes sir.

Q. Is it not true that women have actually threatened to leave their husbands because they were suspected of voting the Democratic ticket?—A. Yes, sir; I have heard of the like.

Q. Is it not true that in those clubs there has been a good deal of talk, and among the members of those clubs a good deal of talk about men of the colored race who were understood to have voted the Democratic ticket and concealed it?—A. Yes, sir.

Q. Don't you think some of them are sorry for it?—A. I don't know. A man that is mean enough to do anything of that kind I can't tell hardly when he is sorry.

W. Wallace, a witness for contestant, 222, 223:

Q. Were these men who said they would hold their tickets a foot and a half from their body who had been suspected of voting the Democratic ticket on the sly?—A. They were men who voted the Democratic ticket in August.

Q. And they had been censured by the other colored men for deserting their race in August, had not they?—A. What do you mean by censured? Yes, sir; they had been laughed at. I don't know that they had rated them in any way, though they had been laughed at.

Q. Then, to fully understand the matter, the men who held out the tickets a foot and a half from the body were men who voted the Democratic ticket in August and they did it—that is, they held out their tickets in November to show you that they voted the Republican ticket in November?—A. They done that to prove that they were true Republicans; that is, all men did.

Q. Did every man take his ticket in his left hand or right hand?—A. In his right hand.

Q. Did you examine his hand and sleeve, to see that there was no other ticket there—A. Well, they would open their hand. I did not examine their sleeve, but the coat was so short I could see their wrist and see there was nothing else in their hand.

Q. You thought it important to examine their wrist and see that there was nothing up their sleeves?—A. Yes, sir; I did.

Q. And you examined each one in this way?—A. Yes, sir; I examined every one that voted the ticket.

Q. You examined each one of the 156 colored men?—A. Yes, sir; I did.

Q. You examined their hands and sleeves to see that there could be no foul play?—A. Well, I did not feel of their arms and sleeves, but I examined their wrists close before I gave them their ticket.

Q. You did all this because you had very little confidence in these men?—A. I had confidence in them, but I did it to be satisfied in my own mind that they did vote the Republican ticket.

Q. If the Democratic ticket they had had been rolled up very close they could have secreted it so you could not see it, could not he?—A. Every man held his hand open and showed me that he had no ticket before he asked for mine.

A. McCalley, 506:

Question. State your name, occupation, and if you are a colored man.—Answer. Alfred McCalley; forty-seven years of age; occupation, minister of the gospel and a farmer; colored man.

Q. State if you was a delegate to the Democratic convention held in Decatur last August which nominated a candidate to represent this district in Congress?—A. I was.

Q. What other colored men, if any, from this county, were delegates to that convention?—A. W. H. Councill and Anderson Critz.

Q. Were there many colored men who were earnestly advocating the Democratic cause in the November election?—A. There were.

Q. About how many voted the Democratic ticket at Lanier's store in the November election?—A. I can't state the exact number, but think there were a good many.

Q. Do you know of any acts of terrorism to prevent colored men from voting the Democratic ticket in the last November election or preceding thereto? If so, state what they are.—A. I do. I know that colored men are generally ostracized if they vote the Democratic ticket. Essex Lewis was turned out of the Cumberland church because he voted the Democratic ticket, and I have been ostracized on that account. The elder of the church told me that neither Essex Lewis nor I should ever be received at his house again since we were going to vote the Democratic ticket. The pastor of the church invited me to assist him in administering sacrament at Poplar Hill. I went to do so. After I had read a passage of Scripture and prayed and got up to announce my text, a confusion ensued and many of the congregation departed, saying that they would not stay to hear a "Democratic nigger" preach. This was since the election.

Q. Please state if you went to Hartsell's to make a speech in September last in the interest of the Democratic party.—A. I did.

Q. Please state what occurred.—A. I was asked what party I was advocating. I said the Democratic party. Then they would not permit me to speak.

Q. Who was it that would not allow you to speak?—A. The colored people.

Q. Did you know who they were?—A. I did not. I only know that there was a large portion of them who would not permit me to speak.

Q. Did they use any threats against you if you tried to speak?—A. They did. They said if I got up to speak that they would mob me.

Q. What did you do?—A. I took the 4 o'clock train and returned to Huntsville.

Q. Why do you think that a great many colored men voted the Democratic ticket at Lanier's Store in the November election?—A. There are a great many colored men who favor the Democratic party, and will always vote that ticket but for the ostracism and terrorism practiced by the Republicans or Greenbackers.

Another explanation of the result is that Lanier's precinct was carved out of Triana and Whitesburg precincts after the August election and before the November election of 1880, and the aggregate Democratic majority at the two precincts in August was 169, whereas at the November election the aggregate result was a democratic minority of 222. This shows not a Democratic gain, but a Democratic relative loss of 391 votes at the three precincts in November.

The vote in August stood as follows:

	Democratic.	Opposition.
Triana	350	227
Whitesburg	267	221
	617	448

Democratic majority, 169.

But the vote in November was:

	Democratic.	Opposition.
Triana	84	336
Whitesburg	175	223
Lanier's	133	55
	392	614

Democratic *minority*, 222.

This is shown on pages 533, 534, and 535 of the record.

It appears, therefore, that the aggregate opposition vote was 111 greater at the Triana and Whitesburg precincts in November than in August, while the aggregate Democratic vote in November, in all three precincts, was 225 less than at the two original precincts in August. And almost half of the aggregate Democratic votes cast in November in the three precincts were cast at the new precinct of Lanier.

A third explanation is, that three colored men, including Rev. Mr. McCally, were members of the convention which nominated Mr. Wheeler, and were influential workers for him.

Still another explanation is, that William Wallace, alias Wallace Toney, distributed Wheeler tickets. Wallace denies this. But Jordan swears to it on page 566. Wallace is impeached on pages 549, 556; and not one of the numerous witnesses, afterwards examined by the contestant, is called upon to sustain him.

IV.

MERIDIANVILLE, No. 2.

The following is the conclusion of the committee respecting the election at this precinct:

The returns being successfully impeached, contestant very properly relies upon the direct testimony of the voters themselves, which clearly entitles him to 55 votes at this box.

But the contestant did not specify, as one of t
test, that he received 55 votes, or any other numb
cinct; nor did he advise the contestee in his no
would attempt to prove such votes by witnesses.
the rejection of the precinct return. All he said

I am informed, and believe, and so charge the fact to be,
ballot-box stuffing *or* a false count at the precinct of Meridi
ison County.

The grounds of this alternative charge, urged
that the contestant received 18 votes less than th
that all the inspectors were democrats; (3) that
the contestant, but only 47 counted for him; and
spectors so inclined his person that the superviso
lots when they were counted out at the close of t

The circumstance that the contestant received
Garfield electors would not seem to be a very s
charge against the integrity of the returns. It is
did not receive all the Republican votes at this p
rather amazing that he received any at all.

He had been a life-long Democrat, and while co
ocratic party had vilified the Republicans, and p
voters, with extraordinary virulence.

To the complaint that all the inspectors were
is obvious. In the first place, the law on this sub
In the next place, a Republican was appointed,
and in his absence the inspectors made an appo
cancy. There was no law requiring them to selec
case. They did, however, attempt to do so. But
to be at a discount among the contestant's suppo
was a failure.

The charge that 55 ballots were cast for the c
counted for him, rests upon 55 so-called depositio
testant.

These depositions are inadmissible for the follo

(1) None of the depositions are certified as req

(2) They constitute testimony in chief, and wer
the contestee's objections, during the last ten da
by law.

(3) The notary refused to permit the contestee
witnesses.

To maintain the assertion that 55 votes were c
instead of 47, he depends largely on the testim
named Wade Blankenship. The following extra
printed on pages 234, 235, and 241, will show the
ness on whom the contestant relies for the impea
of the returns of these polls.

Q. Where did you hold that club meeting before the elect
place.

Q. How many were present?—A. I don't remember befo
member how many was present, sir.

Q. About how many?—A. Well, at that meeting there
seventy men there.

Q. You know that to be true, do you?—A. Well, I don't
there was somewhere in the neighborhood of that.

Q. Can you swear positively that there were sixty me
swear at all about it; I was not acting as secretary of the
as a speaker that night, and I paid no particular attention
present.

Q. Did you know the men that were present personally?—A. Yes, sir; I knew every man in the house; I reckon there is none out there a stranger to me.

Q. Can you swear there were fifty men?—A. Yes, sir; I would do that, but I wouldn't want to swear that there were any designative number, simply from the fact that I don't know how many were there.

Q. If you don't know how many were there why did you swear there were sixty-five or seventy there?—A. I say I did not swear that.

Q. Then you don't understand that what you say here is swearing, do you?—A. I understand that, of course, but I didn't speak definitely as to how many were there.

Q. Can you swear that there were forty men there?—A. I could do it, but I don't want to swear as to any designated number, general, as I first stated to you.

Q. If you are certain there was forty there, why do you object to swearing there was forty there?—A. Well from the simple fact that I didn't count them; I just judged from the crowd sitting around that there was sixty-five or seventy men that were present.

Q. What kind of a house was it?—A. It was a box (little), probably sixteen by eighteen.

Q. And they were all sitting down, were they?—A. No, sir; they couldn't get seats to sit.

Q. You think then it is probable there were sixty-five or seventy men in the room?—A. Yes, sir.

Q Who occupies that house?—A. Well, it has been occupied as a school-house for the last year.

Q. Were there any tables in it?—A. A small table there they used for the secretary of the club.

Q. You are a good judge of numbers, are you not, of men?—A. I don't know I have. I guess pretty well different times at a body of men.

Q. Can you not swear there were thirty men there?—A. I could do it, but I wouldn't do it from the simple fact that I didn't count the men, and I couldn't say positively—well, I know there was that many.

Q. If you know there was forty men there why are you unwilling to swear there were thirty men there?—A. Well, I gave you my reasons a few minutes ago.

Q. Are you willing to swear there was twenty men there?—A. Yes, sir; I would be willing to do it, though in the mean time I don't want to do it.

Q. Would you swear there was fifteen men there?—A. Yes, sir; I would; but I don't want to do it under the circumstances.

Q. Would you swear there was ten men there?—A. I would, but then I don't want to do it.

Q. How many men did you see put in Lowe votes at that box?—A. I don't know.

Q. Did you see any men put in Lowe votes at that box?—A. Yes, sir.

Q. How many?—A. I don't know, I told you.

Q. Did you see ten (10) men put in Lowe votes at that box?—A. I don't know.

Q. Did you see five men put in Lowe votes at that box?—A. I don't know, sir, the number. I know I saw men vote there, though.

Q. Could you read the tickets in their hands as they voted?—A. No, sir.

Q. Could you read the ticket in any man's hand that he voted besides your own?—A. No, sir; I don't think I saw a man vote an open ticket there.

The contestee has taken the trouble to impeach Blankenship (p. 517.), But this is wholly unnecessary. He possesses an imagination which a Falstaff might envy. He sees 57 colored Republicans marching to the polls where only 30 are visible to other men. He sees 65 or 70 men assembled in a room which he says is 16 by 18, which another says is 14 feet square.

The testimony of Walter Blankenship, on page 290, shows what kind of evidence the rest of these witnesses would have furnished, if the contestee had been permitted to cross-examine them. He says:

Int. 25. For what offices were the persons to be elected who were on the ticket besides the county officers?—A. For our President and for our Senator.

Int. 26. Who was to be elected President and who was to be elected Senator?—A. Mr. Hancock and Mr. Garfield was running for President's seat, and Mr. Wheeler and Lowe for Senator.

Int. 27. What other officers were voted for besides Senator and President?—A. I was not particularly caring about the others, which one got it.

Int. 28. You are perfectly certain, are you not, that Mr. Garfield's name for President and Mr. Lowe's name for Senator was on your ticket?—A. I am certain it was, because I got it from a straight man.

Int. 29. Is that the reason you know the above was on the ticket?—A. Of course; I go by that; yes, sir.

District electors:
1st District, C. C. McCall, v. v, iii.
2 Dc., J. B. Townsend, v, v, iii.
3 Dc., A. B. Griffin, v, v, iii.
4 Dc., Hilliard M. Judge, v, v, iii.
5 Dc., Theodore Nunn, v, v, iii.
6 Dc., J. B. Shields, v, v, iii.
7 Dc., H. R. McCoy, v, v, iii.
For Congress, eighth dc.:
Wm. M. Lowe, v, v, iii.
For President and Vice:
Geo. Turner, ii.
Willard Wonern, ii.
Luther R. Smith, ii.
Charles W. Rully, ii.
John J. Martin, ii.
Benjamin S. Turner, ii.
Daniel B. Booth, ii.
Winfield S. Bird, ii.
Nicholas S. McOffee, ii.
James S. Clarke, ii.
For Representative in Congress, from the 8:
William M. Lowe, ii.

The above is the only return received from the Kinlock box.

The deposition of J. H. McDonald, page 1138½, shows that up return the county officials estimated 16 votes for William M. Lo none for Joseph Wheeler.

It will require no argument or authority to show that these r cannot be received, and that 16 votes should be deducted from th returned for William M. Lowe from Lawrence County.

THE UNREGISTERED VOTE.

We now proceed to the consideration of that branch of this case has relation to ballots that were illegal because the voters were no tered. The contestee gave notice to the contestant by his answe he would insist upon the rejection of such ballots. By the const of Alabama the qualifications of voters are distinctly prescribed

registration list of the voters in his precinct or ward, returns it to the judge of probate of the county, and the judge of probate furnishes to the inspectors of the election certified lists for each precinct, and these certified lists constitute the registration lists evidencing who are entitled to vote. In making up this registration list, the elector is required to make oath that he has the qualifications of a voter as prescribed by the constitution of Alabama above stated. The assistant registrars are required to be present on the day of election for the purpose of registering such persons as may not have registered prior to the election. The list of those registered on the day of the election is returned with the poll lists, &c., kept on the day of the election, to the county canvassers, and this list kept on the day of the election is filed with the judge of probate and becomes a part of the records of his office, and thus the registration lists are kept complete, and constantly show who are entitled to vote in the various precincts and wards of the county.

The contestee, as above stated, claims that a very large number of persons were permitted to vote in this district who had not been registered according to the provisions of this law, and the contestant endeavors to escape from this claim of the contestee, not by showing that the parties who voted were registered as the law requires, but by a construction of the constitution which we will here briefly state. The contestant claims that the provision of the constitution above quoted only means that a party shall not be permitted to vote when the act of the legislature in distinct terms provides that he shall not be permitted to vote unless he has been registered. Or, in other words, he claims that notwithstanding the fact that the constitution provides as already quoted, and notwithstanding the fact that a registration law has been enacted, still the party is entitled to vote unless the *statute* of Alabama expressly provides that he shall not be permitted to vote excepting when he is registered.

Now we respectfully submit that this is a perversion of the plain language of the constitutional provision. It will be observed that the language of the constitution is that "the general assembly may, when necessary, *provide by law*, for registration * * * * and when it is *so provided* no person shall vote unless he shall have registered as required by law."

Now, what do these words, "so provided," refer to? Plainly to registration. That is to say, the general assembly was authorized to provide by law for registration; to determine the mode and requisites of registration generally and particularly. The registration had reference to persons who were entitled under the constitution to vote. It has nothing whatever to do with the qualifications of the voter, because those qualifications are fixed by the constitution itself, and could not be interfered with by any act of the legislature. And therefore the concluding words of this section are unmistakable in their meaning, "no person shall vote at any election unless he shall have registered as required by law"; and that meaning is that the constitution having fixed the qualifications of the voter, this registration law was intended to furnish the evidence of the right of the party to vote, to wit, his being registered as a voter according to the forms and requirements of this act of the legislature. This act of the legislature was provided for by the constitution, not to determine the qualifications of the voter, but to furnish the qualified voters with the evidence that they were qualified and entitled to cast their ballots, and the constitution simply provides, and no other rational meaning can be attributed to it, that registration, and that alone, shall be evidence of the fact that the party is a qualified voter, and therefore any person who is not registered is clearly an illegal voter

under the constitution and laws of the State of Al
is the act of the voter. If he fails to register it is
cannot complain, nor can any one else, if his right t
of non-registration.

After a careful examination of the testimony in
that it conclusively shows that not less than 2,40
district who were not registered, and that not le
voted for the contestant.

We cannot here set out all the testimony on th
a table, giving the precincts, the number of non-re
of witnesses, and pages of the record, for conver

TABLE No. 2.—*Unregistered and illegal voters who are proven*
Lowe for Congress, November 2, 1880. These illegal voters c
votes which were returned for Wm. M. Lowe.

County.	Precinct.	Pages of record containing registration lists.	Pages on which poll-list commences.	Number of voters not registered proven to have voted for Wm. M. Lowe.	Name illeg they
Jackson	Berry's Store	713–716	694	33	Rober tor.
	Nashville	720–724	696	14	Frede
	Carpenter's	700–703	690	3	Danie
	Hunt's Store	717–720	695	7	J. F.
	Hawk's Springs	708–710	692	4	Samu
	Bishop's	724–728	697	12	D. V.
	Scottsboro'	728–739	698	11	Rober pp.
	Bellefonte	704–708	691	17	Willia
	Davis's Springs	711–713	693	16	Alexa
Madison	Meridianville No. 2	626–642	667	18	Each 279.
	Meridianville No. 1	626–642	665	89	A. J. son,
	Whitesburg	645–655	668	46	G. D.
	Madison	610–625	659	28	Thom
	Madison X Roads	584–592	658	12	N P.
	Maysville	592–610	662	55	Thom
	Cluttsville	571–584	656	22	Wm. pp.
Lawrence	Courtland No. 2	1142–1154	1139	189	Quint pp.
	Brickville	1186	1182	18	Olive
	Red Bank	1184–1186	1183	12	J. M
	Moulton	1173–1177, 1196	1177	16	W. J Jour
	Hampton's	1179–1182	1182	11	W. I Nat
Limestone	Mooresville	826–831	803	180	John war
	Slough Beat	823–826	852	55	Rober Ste 817
	Athens	831–835	842	16	Nat. Cre
	Shoal Ford	835–838	856	9	Frank
Colbert	South Florence	420–427	441	36	James San The Joh 1053
Lauderdale	Florence	921–924, 939–944	911	39	Gilbe pp.
	Oakland	926–929, 945–946	918	25	H. C.
	Center Star	938	916	12	B. Jo
	Cave Springs	954, 955	910	22	Carve 964,
				1,027	

It will be seen by reference to the testimony that in a very large proportion of the cases where persons voted who were not registered the testimony is direct and positive that these non-registered persons voted for the contestant; but if it be conceded that there is doubt as to who they voted for, then the rule of law as to dealing with such cases is as follows (see McCreary on Elections, page 298, section 223, first edition):

In purging the polls of illegal votes, the general rule is that, unless it be shown for which candidate they were cast, they are to be deducted from the whole vote of the election division, and not from the candidate having the largest number. (Shepherd *v.* Gibbons, 2 Brewst., 128; McDaniel's case, 3 Penn., L. F., 310; Cushing's Election Cases, 583.) Of course, in the application of this rule such illegal votes would be deducted proportionately from both candidates, according to the entire vote returned for each. Thus, we will suppose that John Doe and Richard Roe are competing candidates for an office, and that the official canvass shows:

	Votes.
For John Doe	625
For Richard Roe	575
Total vote	1,200
Majority for Doe	50

But there is proof that 120 illegal votes were cast, and no proof as to the person for whom they were cast. The illegal vote is 10 per cent. of the returned vote, and hence each candidate loses 10 per cent. of the vote certified to him. By this rule John Doe will lose 62½ votes, and Richard Roe 57½ votes, and the result, as thus reached, is as follows:

	Votes.
Doe's certified vote	625
Deduct illegal votes	62½
Total vote	562½
Roe's certified vote	575
Deduct illegal votes	57½
Total vote	517½
Majority for Doe	45

Applying this principle, we here submit a table showing the number of votes cast for contestant and contestee at various precincts, the number of non-registered voters, and the *pro rata* of deductions from each party on account of the non-registered votes, and the pages of the record where the registration and the poll-lists will be found, &c.:

TABLE NO. 1.—*Table showing unregistered voters.*

County.	Precinct.	Pages of record containing registration list.	Pages of record, poll-list.	Number of votes cast.		Number of voters not registered.	Number to be deducted from Lowe's vote.	Number to be deducted from Wheeler's vote.	Difference or total loss to Lowe.	
				Wheeler.	Lowe.					
Jackson	No. 10, Bellefonte	704–708	691	44	130	56	42	14	28	The evidence of John B. Talley, probate judge, pp. 689-690, shows that the registration lists are complete and correct.
	No. 13, Berry's store	713–716	694	49	123	81	58	23	35	
	No. 15, Hunt's store	717–720	695	24	32	26	15	11	4	
	No. 17, Nashville	720–724	696	35	132	86	68	18	50	
Madison	Cluttsville	571–584	656	166	222	61	35	26	9	The certificate under seal of William Richardson, probate judge, p. 656, shows that the registration lists of the precincts named are full and correct.
	Madison X Roads	584–592	658	50	111	32	22	10	12	
	Madison	610–625	659	169	324	116	72	44	28	
	No. 1, Meridianville	626–642	665	123	360	169	126	43	83	
	Whitesburg	645–655	668	175	223	113	64	49	15	
	Collier's	671–685	685	87	134	48	29	19	10	
	Triana	1218–1225	1215	84	336	275	206	69	137	
Limestone	Slough Beat	823–826	852	123	213	107	68	39	29	The evidence of John M. Townsend, probate judge, pp. 822, 823, shows that the registration lists of Mooresville, Slough Beat, Shoal Ford, and Athens are correct full, and complete.
	Mooresville	826–831	803	90	619	215	189	26	163	
	Shoal Ford	835–838	856	74	101	22	13	9	4	
Lauderdale	Oakland	926–929, 945–946	918	100	289	103	77	26	51	The evidence of William E. Harraway, probate judge, p. 905, shows that the registration lists which he gives are correct.
	Florence	921–924, 939–944	911	252	406	280	173	107	66	
Colbert	Cherokee	428–436	439	124	134	50	31	28	3	

Now, making a calculation upon the basis of 2,400 non-registered voters, instead of 2,698, as shown by this table, and making the deductions pro rata, there would have to be deducted from the vote of the contestant, 1,642, and from the vote of the contestee, 758, and this of itself is more than sufficient to overcome all that is claimed by contestant. But we maintain the truth to be that in making this deduction on account of illegal ballots by reason of non-registration, there should first be deducted 1,000 at least, because the proof shows that that number voted for the contestant, and that in making the application of the pro-rata rule, it should be confined to the remaining 1,400 votes, which the testimony does not show for whom the votes were cast; and making the application to this number, there would be deducted from the contestant, first 1,000, which were proven to have been cast for him, and second, 905, under the pro-rata rule, making a deduction of 1,905 votes from his aggregate, and 495 from the aggregate of the contestee, and if we are correct in this, this alone is conclusive against the contestant in this case.

Another rule might be adopted, which is more favorable to contestant and which we have set out elaborately in our conclusion. It is urged by Mr. Ranney, of the majority, who has submitted his "views," that the contestee cannot have advantage of this, for the reason, as he claims, that the evidence is not sufficient to show that these parties were not registered. To what special lists he applies his objections, his "views" do not inform us. He speaks of them generally and makes his objections equally generally. One of his objections is that "we have nothing to show what names were once on them and been dropped off or taken off by reason of death, disability, removals, or for other reasons."

We fail to see the pertinency of this objection. If a man had once been registered and had been taken off the list by reason of his death, or by reason of his removal, or by reason of having been convicted of some crime which disqualified him as a voter, he certainly would not be entitled to be on the registration list. He would not be a voter, and in making up the list for the use of the inspectors it could hardly be contended that the judge of probate, would put upon the list which was to be the guide of the inspectors, the names of persons who had thus ceased to be registered. Another objection he makes is that few of the lists are verified in the original, by the certificate of the registrar. Another is that these papers that have been put in the record are not in the form prescribed, with appropriate headings, &c., and he objects to the poll-lists, because some of them do not appear to have been certified by the inspectors, and for that reason claims that they have no verification or identification as genuine poll-lists, and cannot be regarded as proofs; and he says that in three precincts of Limestone County no poll-list appeared to have been returned at all, and the judges gave no certified copy of the same; but he adds that "the contestee has put in evidence three papers sworn to by one of the inspectors in each case as the poll-list, and purporting to be signed by the three inspectors. But as they never sent them to the probate office as required by law, and no reason or explanation for the omission given, we do not regard them as proof or as worthy of credit."

Now, the answer to all this seems to us to be plain. First, as to those lists which he criticises on account of informality, which have been certified by the probate judge, the law requires, as we have seen, first, that the judge of probate shall furnish to the precinct inspectors the registration lists which are to be their guide in conducting the election. Next, it requires that the precinct registrar shall be present on the day of the election and register such persons as have not theretofore been registered; next, it requires

this additional registration list to be sent up with the returns, in the same box in which the returns are sent; next, it requires that this additional registration list shall be filed with the probate judge, and thus we have in the office of the probate judge the very identical registration list which was used and made at that election. The probate judge is by law the custodian of this list, and whether that list was formal or informal in its construction, and whether the proper certificate was put upon it or not, can make no possible difference, so far as the point in controversy is concerned, because it is *the* list upon which the election was conducted. There was no other list, and the fact that the list may have been irregularly made up by the officers whose duty it was to make it, could not possibly render legal a vote that was cast by a party who was not registered even upon this informal registration list. There is no other way to prove what that list was than by the certificate of the judge of probate, except as we will hereinafter state. He was the custodian of the list, and his certified copy of that which appeared in his office as the list is all that the law requires.

To the objection that he has made, that some of the poll-lists, to wit, in three precincts in Limestone County, have not been properly proven, because they were presented in evidence by the inspector instead of the judge of probate, we think there is a conclusive answer in this: That the law of Alabama requires one poll-list to be certified by the precinct managers and sent up with the returns, and another copy of the poll-list to be kept by the inspector. Now, here are two records kept, one in the probate judge's office, and the other by one of the inspectors. And to either of these the contestee had the right to go for the purpose of procuring these poll-lists, and either one of them is perfectly competent as testimony. In respect of the three precincts referred to, the contestee has seen fit to put in evidence the poll-list which the law requires to be kept by the inspector, and we entirely fail to see why that poll-list is not entirely competent as evidence, just as competent as would be the poll-list that was filed in the office of the judge of probate. But the testimony of these inspectors and the integrity of these poll-lists is attempted to be called in question, because it is said that from these precincts no poll-list found its way into the office of the judge of probate But the fact that these poll-lists did not find lodgment in the office of the judge of probate, when it is proven by the testimony of the inspector who produces the poll-list required by law to be kept by him that that was the poll-list used at that election, then we submit that the fact that there is no list in the office of the judge of probate for such precinct is not upon any principle known to the law sufficient to defeat the direct evidence above referred to. As to these registration-lists therefore the case stands thus: The contestee has furnished certified registration-lists as they appear in the office of the judge of probate and poll-lists as to the precincts, except three in Limestone County, and as to these three he has taken the testimony of the inspectors in whose custody the poll-lists were, and, in connection with their testimony, has produced the lists used in those precincts.

The objection taken to the poll-lists furnished by the judge of probate because the certificate of the inspectors of the election does not appear thereon is untenable, we submit, for another reason. By an examination of the statute, it will be seen that the inspectors are required to keep a "poll-list." Then they are required to make a certificate on that "poll-list," and the "poll-list," as we have above stated, is to be filed in the office of the judge of probate. Now, the certificate of the precinct managers that is to be indorsed on the "poll-list" is no part of the poll-

list itself. It is an identification or verification of the poll-list, and when therefore the judge of probate certifies the "poll-list," it is no part of his duty to certify the verification of the poll-list, and the absence of this verification is therefore no evidence that the poll-lost was not duly verified by the certificate of the precinct managers.

But to all of these objections that are made to the sufficiency of this testimony we have another answer to make. The contestant was duly notified of these illegal votes, and that their rejection would be contended for in this contest. The contestee, in support of that, put in evidence these poll-lists and registration-lists, for the purpose of showing that persons whose names appeared on the poll-lists did not appear on the registration-lists, thus proving the illegality of these ballots. The contestant had ample opportunity afforded him to show that these parties were registered, if such had been the fact. Specific information was given him by means of these lists and by direct proof specifying names as to the persons claimed to be illegal voters, and in not a single instance has he proven or attempted to prove that these parties were registered as the law requires. If inferences are to be indulged in, in a case like this, as they are indulged in by the majority in reaching their conclusions, then the inference from these facts which we have just stated is irresistible, that what the contestee has asserted as to these voters is true. If it were not so, if these parties or any of them were registered, the contestant would undoubtedly have availed himself of the opportunity to make the proof by producing the necessary evidence, which must have been within his easy grasp, if the fact had been otherwise than as claimed by the contestee.

As above stated, conceding to the contestant all that he claims in regard to the matter of rejected ballots, the rejection of these non-registered voters, which we maintain is clearly commanded by the proofs in this case, must determine the case in favor of the contestee.

Mr. Ranney, in his report of the majority, asserts that the registration lists which are placed in evidence are not legal registration lists, that is, they are not such registration lists as are required by law; and his report gives as a reason why this cannot be availed of by Mr. Wheeler, that "contestee does not set up a want of legal registration as vitiating the election in any precinct."

Upon this point the majority are mistaken. The allegations of contestee upon this point are as follows:

Contestee alleges that at the following precincts of Lawrence County, viz, Courtland, Red-bank, Avoca, Wolf Spring, Mount Hope, Kinlock, Landersville, Hampton's, Oakville, and Hillsboro', 450 persons were allowed to vote, and did vote, for contestant, some of whom had no right to vote at the precincts where they cast their votes, and others who voted at said precincts were not legal voters, and had no right to vote at all.

And contestee further alleges that these persons "*did not have a right to vote, for the reason that they had never been registered as required by law.*"

The proof shows that there was no legal registration at any of these precincts, and therefore all these should be rejected from the count, because where there is no legal registration there cannot be legal voting.

This is unquestioned law, and was lately reaffirmed by the committee in the case of Finley *vs.* Bisbee.

In the Florida case the proof shows that the registration lists, so far as they went, were legal.

In this case the proof shows that there was no legal registration at all

in the precincts of Lawrence County which we have mentioned, and it further shows that no part of the pretended registration of said precincts is legal registration.

The allegations of contestee that registration lists are not legal are more direct and positive than the allegation of contestant that ballots were rejected, and more direct and positive than the allegation of contestant regarding Lanier and Meridianville precincts.

COURTLAND BOX NO. 2.

In addition to the foregoing, however, we think it plain that under the law and the repeated decisions of the majority of this committee. Courtland box No. 2 must be rejected from the count. This precinct was returned, for contestant 419, and for contestee 111. The law of Alabama requires that upon the closing of the polls the inspectors shall proceed immediately to count the ballots. Now, in the case of this precinct, upon the closing of the polls the inspectors proceeded with the count, and continued until about two o'clock the following morning. Then the suggestion was made by some one that a mistake had been made, and thereupon the ballots were all replaced in the box, and a Mr. Harris, one of the inspectors, who is described by one witness as an Independent voter, and whose politics are of doubtful complexion, at least, took that box, with the ballots in it, carried it away with him, and kept it until the next morning. There is absolutely no testimony proving or tending to prove that the ballots in that box remained the same during this interval.

THE CODE OF ALABAMA.

Section 285 says:

> It is the duty of all inspectors of elections in the election precincts, immediately on the closing of the polls, to count out the votes so polled.

The positive proof shows that at Courtland box No. 2 all the inspectors were Greenbackers or Independents, and the record shows that Mr. Lowe, in announcing himself as a candidate, called upon Greenbackers, Democrats, and Independents, and upon these alone for support.

There is no positive proof that Mr. Harris was a Democrat, although Mr. Lowe's lawyers make a great effort to establish that fact, but it is positively proved that he had been an independent voter, and had on four occasions arrayed himself against the Democratic party.

It shows that Joseph Wheeler received as many votes as Mr. Lowe, but that the inspectors violated the law, and that Wheeler ballots were abstracted therefrom and Lowe ballots substituted therefor.

The uncontroverted proof shows that there were but little over 500 ballots cast at that box, and that the inspectors pretended to be occupied counting these ballots from 5 o'clock in the evening until 2 o'clock the next morning.

That even after these nine hours' work the inspectors had not completed the count of the votes.

That they then put the ballots in a rough box, and that one of the inspectors took the ballots away from the voting place, kept them all night, and the next day the ballots were illegally counted and a return made, falsely stating that Wheeler had received 111 votes, and that Lowe had received 419 votes.

And the evidence further shows that in truth and in fact Wheeler received at least 200 votes at that box, and the proof tends to show that he received at least 250 votes.

We give below some of the evidence regarding this box.

Mr. Reynolds, a witness examined for William M. Lowe, testified as follows, page 443: "Was United States supervisor of Courtland box No. 2 at election November 2, 1880." And on page 444½ gave the following evidence:

Q. Was the vote counted out according to law at your box?—A. I suppose it was.

Q. Did you see the vote counted out?—A. I saw it; I was in there nearly all the time, and watched that.

Q. State how it was counted.—A. It was counted out like the votes are generally counted.

Q. Is it not true that when the votes were pretty nearly counted out that the inspectors stopped counting the votes, poured all the tickets back, in a rude box, and then dispersed, and did not return until the next day?—A. Well, they did not get through counting out until next day.

Q. Cannot you answer the question, Mr. Reynolds?—A. I know they did not get through counting, and we had to go back next morning to finish counting.

Q. Where were the ballots left during the night?—A. Well, I think Mr. Harris taken them down to the hotel with him. He was one of the officers.

Q. In what did he take them?—A. He took them in the box—the box that they were put in.

Q. What kind of a box?—A. A ballot-box.

Q. Was not it a common candle-box?—A. Well, I didn't examine particularly about that: it was just a ballot-box, such as we generally had.

Q. Did it have any lock to it?—A. Well, I don't know; I did not examine it sufficiently to tell about that, whether it had a lock on it or not; but it ought to have had if it did not.

Q. When they returned the next morning did they not pour all the votes out on the table?—A. Well, they selected them out and put them at different places in different piles by themselves so they could get along and count them faster.

Q. Were not all the ballots lying on the table at the same time?—A. All of them?

Q. Yes, sir.—A. I don't think they were all out at one time.

Q. Were not most of the ballots lying on the table at the same time?—A. I think the majority of them were.

Q. How many ballots were there?—A. In all?

Q. Yes, sir.—A. I will have to make a calculation here. How many were there cast?

Q. Yes, sir; at that box?—A. Well, here it is, you can make the calculation.

Q. Well, to give it roughly?—A. Mr. Lowe got four hundred and forty-one (441); twenty-two (22) off left four hundred and nineteen (419). Twenty-two Greenback votes. Wheeler, one hundred and eleven. My recollection is that was the majority of the votes out on the table.

Q. Is it not true that when the majority of the votes were lying on the table, that they were sorted out in piles?—A. Well, they sorted them so they could get along in counting. They sorted them out; that is, the Democratic votes were sorted out, and the others by themselves.

Q. Is it not true that they had pretty nearly counted out the vote the night before, before they stopped?—A. No, sir; they lacked right smart of it,

Q. How many hundred had they counted out, do you think?—A. Well, I don't know; did not take any notice of that.

Q. Did they commence in the morning where they left off, or did they commence at the beginning?—A. They counted the whole thing over, my recollection is about it.

Q. Were not people who were not election officers permitted to come into the room in the morning?—A. Well, I was not there all the time, but I was there nearly all the time. There might one or two have come in.

Q. Were not people permitted to come into the room during the night, after you left there?—A. After we left there?

Q. Yes, sir.—A. I don't know. I was not there; I left when the box left.

Q. Could not the room be easily entered?—A. Well, I suppose it could; that room? Yes, sir. Don't think it had any lock to it. I suppose any one could get in there that wanted to. But then that was after we left, you know. I don't know whether any one went in or not. The votes were taken down to the hotel.

Q. Was it not generally understood at that box that Joseph Wheeler was getting a large vote that day during the election?—A. Well, I was not out much amongst the people; I was watching over the box, and did not go out but very little.

Q. Did not the election officers report that that was so?—A. The general opinion was that he was getting over the Democratic vote there.

Q. Finally, on November the third (3d), when the vote was counted out, was it not shown that Joseph Wheeler had but one hundred and eleven (111) votes?

(Contestant objects to this question, because he has answered it three times.)

A. Yes, sir.

Walter W. Simmons, a supporter of and a witness summoned by William M. Lowe, testifies on January 4, 1881, p. 452:

Q. Did you have anything to do with holding of the Congressional election on November last?—A. Yes, sir; I was supervisor at box number 2, Courtland precinct.

Q. You made out that report two days after the election, did you not?—A. I made it out the next morning after the polls were closed and put it in the office.

Q. Did you not state, Mr. Simmons, two or three times during the day, that Joseph Wheeler was getting a large vote at your box?—A. Yes, sir; I thought you were getting a larger vote than you really did get.

Q. You state that the objection made to the ticket was that it had numerals?—A. Yes, sir.

Q. Were not those numerals something besides the names of the persons to be voted for and the offices to which they were to be chosen?

(Contestant objects to this question, because it calls for the opinion of the witness.)

A. I suppose it is something besides the names of the electors.

Q. Is it not true, Mr. Simmons, that the inspectors commenced counting the vote, and that they then poured all the votes back in the box and dispersed for the night?—A. Well, they counted until about 2 o'clock in the morning, I believe, and some of them discovered that they had made a mistake, and they just concluded they would bundle up, and commence and recount the whole box the next morning; Mr. Harris took the box, and went to the hotel that night and locked it up in the room with him, and met the next morning and finished counting.

Q. Didn't some of the inspectors or clerks get sick?—A. One of the clerks got sick—Mr. Branch.

Q. When they met the next morning, were you present to see them count?—A. Yes, sir.

Q. Is it not true that they poured all the ballots on the table, and sorted them out?—A. I think they did; some one suggested that they could get through quicker by counting them that way; they poured them on the table, and sorted the tickets, to get the Republican tickets to themselves, and the Greenback tickets to themselves, and the Hancock Democratic tickets to themselves.

Q. Is it not true that this room where you held the election was an open room that people could enter at pleasure?—A. Well, I suppose they could if they had tried; it was a pretty shabby old concern; doors were kept closed, I believe, all the time until they closed up.

Q. You have been actively engaged in politics, have you not, in this last canvass?—A. Yes, sir; I have taken a great interest in politics this last year.

Q. You were a strong supporter of Colonel Lowe, were you not?—A. Yes, sir.

Q. Mr. Simmons, did or not the friends of General Wheeler make the same kind of efforts, so far as you know, to secure the colored vote that friends of Colonel Lowe did?—A. I suppose they did.

Q. No man's vote was refused because he was a colored man?—A. Not that I know of.

Q. You stated, I believe, Mr. Simmons, that the inspectors counted the vote until 2 o'clock at night?—A. I think it was about 2.

Q. And then adjourned until the next morning; then they had another count?—A. Yes, sir.

Q. Were the votes that you say that were thrown out the same the night before that they were the next morning?—A. Yes, sir.

Q. The box you stated was taken away by a Mr. Harris and left in his custody between the count at night and the count the next morning?—A. Yes, sir.

Q. What were Mr. Harris's politics?—A. Well, sir, he is a Democrat, I believe; always has been.

Q. Was he a friend and supporter of General Wheeler?—A. Yes, sir; I believe he was.

Q. By General WHEELER. Don't you know he voted for Billy McDonald and for Houston?—A. My opinion is that he voted for McDonald, but I don't know. My opinion is he voted for Houston for tax collector, too.

Q. Both of those men were opponents to the Democratic party, were they not?—A. Yes, sir.

Q. Is not it your opinion that Mr. Harris voted for Mr. Houston three years ago, also?—A. Yes, sir; it is.

W. W. SIMMONS.

J. J. BEEMER, page 1128, testifies as follows:

Q. Please state your name, age, where you live, and how long you have resided there.—A. J. J. Beemer is my name; I am in my forty-first year; I live at Courtland; all my life, except six years in Huntsville, when I was a boy, and the time I was absent in the war.

Q. Please state who were appointed inspectors of the election held at box No. 2 in Courtland on November 2, 1880, for member of Congress and Presidential electors,

and state their politics.—A. James Montgomery, an avowed Greenbacker; J. J. Beemer, an independent voter; and John H. Harris, also an independent voter.

Q. Please state if you are well acquainted with the voters of Courtland precinct, and their political sentiments.—A. I think I am well acquainted with the voters of the Courtland precinct and their political sentiments.

Q. For whom was James Montgomery and M. M. Butcher for Congress?—A. I know that James Montgomery was for Lowe, and my belief is that Butcher was also for Lowe.

* * * * * * *

Q. Is it true or not that when you first counted out the ballots after the polls were closed a mistake was made in the count, and that you then adjourned over until next day, and that Mr. Harris took charge of the box until you met next morning?—A. It is true.

In answer to another question, Mr. Beemer testified, page 1129:

General Wheeler got between seventy-five and one hundred white votes at that box, and the colored men who voted for him were known to be for him.

T. H. Jones, page 1087, testified:

The politics of the inspectors at Courtland box, No. 2, was as follows: One a Greenbacker, and the other two had been accustomed to vote split tickets.

The evidence shows that there were no ropes put up, as required by law, and that the persons who were distributing Garfield and Wheeler tickets were, in most cases, close to the window, and saw the men hand in their votes, and the proof is positive and uncontradicted that Garfield and Wheeler ballots were voted which were not counted.

Green Jones, pages 1065 and 1066, testifies that he was at Courtland box, No. 2, all day November 2, 1880, working in the interest of Joseph Wheeler for Congress, and that he got twenty-five colored men to vote for General Wheeler on the Garfield and Arthur ticket. He testifies that he issued these twenty-five tickets, and saw them put the tickets in the hands of the inspectors; that a great many colored men voted that kind of ticket at that box that day; that there were a number of persons, both white and colored, working with the colored people to get them to vote the Garfield and Wheeler ticket that day.

T. N. Kirk swore that the colored men thought they had as good a right to vote for Wheeler as for Lowe, as long as both were on the Garfield ticket. (See pages 1067 and 1068).

Kirk also swore that he voted for Wheeler, and got ten other colored men to vote for him also at Courtlandt box No. 2.

Joe Owens, page 1069, testifies as follows:

I gave out seventeen tickets with the name of Joseph Wheeler on them, who promised to vote the ticket, and, I think, they all voted those tickets; but I know seven of them voted the Wheeler ticket for Congress, at Courtland box No. 2, because I saw them vote the tickets which I gave them.

He testifies that all these men were colored men.

Robert Beard, page 1072, testified that he got three colored men to vote for Wheeler at boxes 1 and 2 at Courtland, and that he voted for Wheeler himself; that a great number of colored men voted the Wheeler ticket; and that a number of persons, both white and colored, were working to get them to vote for the Garfield and Wheeler ticket; and that the impression was that most of the colored men were voting that ticket.

Henry Clay Jones, page 1074, testifies that he got thirty-six colored men to vote the Garfield and Wheeler ticket at Courtland box No. 2, Nov. 2, 1880, also that a great number of colored men voted that ticket that day; that this was a general impression, and that he knew it to be true because he saw them vote it.

James Brown, page 1077, testifies that he voted a Garfield and

For Electors for President and Vice-President of the United States:

GEORGE TURNER.

WILLARD WARNER.

LUTHER R. MARTIN.

CHARLES W. BUCKLEY.

JOHN J. MARTIN.

BENJAMIN S. TURNER.

DANIEL B. BOOTH.

WINFIELD S. BIRD.

NICHOLAS S. M'AFEE.

JAMES S. CLARKE.

For Representative in Congress from the Eighth Congressional District:

JOSEPH WHEELER.

Q. What were these tickets understood to be by the colored men?—A. They were understood to be tickets with Garfield and Arthur electors, with the name of Joseph Wheeler on it for Congress; they all understood that in voting the ticket they were voting for Garfield and Arthur for President and Vice-President, and for Wheeler for Congress.

Q. Was it or not at box No. 2 that these tickets were voted?—A. The great bulk of them voted at box No. 2, but some few of them voted at box No. 1. I voted at box No. 1 late in the evening, when the voting was pretty much all over. I voted a Hancock ticket, with Wheeler on it for Congress.

Q. State the names of all the inspectors at box No. 2.—A. James Montgomery, John H. Harris, and J. J. Beemer.

Q. State the politics.—Montgomery is a Greenbacker, and the others have been accustomed to vote split tickets.

Q. State the names of the inspectors at box No. 1 and their politics.—A. When they commenced the inspectors were Samuel Ashton, a Republican; A. J. Morris, a Republican; and James Galey, a Greenbacker; but they changed and put in T. A. Tatham, a Democrat, in place of A. J. Morris, Republican, who, however, remained and acted as clerk.

Q. Was there a Republican supervisor at box No. 1?—A. Yes.

Q. Was there a Democratic supervisor at box No. 1?—A. No.

Q. Please state what the general impression was when it was announced on November 3, the day after the election, that Joseph Wheeler had but one hundred and eleven votes counted for him at box No. 2.—A. It was a matter of great surprise, as from the way the votes went in it was thought Wheeler votes would be two or three times as large as was counted for him.

Q. Please state the politics of the party opposed to the Democratic party for the last nine years.—A. In 1871 and 1872 the candidates for the legislature and county officers called themselves Independents, and it was the same up to about 1877; then they assumed the name of Greenbackers. There have been no candidates for county officers for many years on square Republican principles, except Peter Walker and John Bell, who ran for the legislature in 1878. At each President's election the Republican electors have been voted for in this county.

Q. Please state what influences you understand have been and are brought to bear upon the colored people to induce them to vote for the Greenback and Independent candidates.—A. The influence of fear and intimidation, to a very great extent, is brought to bear; they are taught that if they do not vote for these Greenback and Independent candidates, pursuant to the direction of their leaders, that the least pun-

ishment which would be inflicted upon them would be ostracization, and that they would be denounced by their colored associates as traitors to their race; they also have fear of bodily harm and harm to their property, unless they vote the ticket dictated by their leaders. In 1878 Peter Walker and John Bell tried to run for the legislature on the Republican ticket, and Peter Walker particularly was so threatened and intimidated and abused that he was afraid to openly distribute his tickets. I was informed that he was so terror-stricken and alarmed that he was in great fear that his house would be burned and that he would be killed. Samuel Haynes, a very intelligent colored man, has just told me that the prevailing influence brought to bear upon the colored man to make him vote for the Greenback party, or some party opposed to the Democratic party, was the conviction and constant threats that they would be ostracised by their race unless they did so. He also said that no matter how beloved and popular a candidate might be, all his prospects would be blasted if he was in support of the Democratic party.

Q. Do colored men when they vote the Democratic ticket want it kept a secret?—A. Yes.

THOS. H. JONES.

Witness:
JOS. F. HILL.

This conclusively shows that there was fraud at this box. It shows that Joseph Wheeler got at least 100 to 150 Garfield and Arthur votes.

The proof also shows that Wheeler received at least 75 to 100 white Democratic votes at that box.

There can be no question but that this box must be rejected.

The proof comes from the witnesses and friends of Colonel Lowe.

As some point was made regarding the politics of Mr. Harris, who constituted himself the custodian of this box, we have taken some trouble to review the subject, and we present the following summary of the evidence which bears on this subject.

Before proceeding to discuss this evidence we must remark that the proof shows that this evidence was all written down by a stenographer (who was employed by Mr. Lowe) and was afterwards written out in long hand, when there was no notary public present.

Therefore, in justification to Mr. Reynolds and Mr. Harris, we may conclude that it was not written down as it was given.

In discussing the evidence we simply discuss what Mr. Lowe's lawyers and stenographer have placed in the record.

Mr. Lowe's witness, Mr. Reynolds, who the record shows to be very earnest for Lowe, who swore he lived in Courtland, which is 43 miles from Huntsville, and who went there voluntarily, passing through parts of four counties, viz., Lawrence, Morgan, Limestone, and Madison, to testify as a witness for Mr. Lowe, when the law did not require him to leave his own county to give evidence, who puts in his evidence, page 446, the disgraceful Stevenson circular; who, when he saw how important it was to Lowe to prove the integrity of the box, testified, page 444, in answer to Wheeler's first question, that the vote at that box was counted out according to law, and to the second question that he saw the count, and to the third question that it was counted as votes are generally counted.

Mr. Reynolds's own evidence shows that he knew that this statement was not correct. It shows that he knew that the vote was counted the next day, in violation of law, and that the manner of counting was in violation of law.

He knew there were what were called straight Republican tickets, straight Democratic tickets, and Garfield and Wheeler tickets.

He knew that to sort them out, and count as he finally admits they did, would be an injury to Wheeler.

He evades the fourth and fifth questions, and it was not till the sixth question came that he admitted the box was carried off by Mr. Harris.

Then follows a series of answers which appeared to be efforts to prevent the development of the fact that the box was without a lock.

At bottom of page 445 he says he thought Mr. Harris was a Democrat, but the committee must remember that many witnesses who supported Colonel Lowe testify that they thought both they and Colonel Lowe were Democrats.

Richard H. Lowe swears, page 160, that he was a Democrat, and a supporter and admirer of Colonel Lowe, and anxious to see him elected; and further he says of Colonel Lowe, page 166, "I think he is a Jeffersonian Democrat," and on page 164¾ he says Colonel Lowe claimed to be a Democrat of the old style—a Jeffersonian-Jacksonian Democrat.

R. H. Lowe also swears, page 173⅓:

I have heard Colonel Lowe declare that any one who said that he was a Republican was a liar.

Q. You have heard him frequently declare that, have you not?—A. I have heard him declare that; how frequently I cannot remember.

And on pages 166 to 172 of his deposition appear the manifestoes of Colonel Lowe, which certainly show extreme opposition to the principles advocated by the Republican party.

R. H. Lowe also exhibits Colonel Lowe's manifesto of September 20, 1880, in which he appeals for support to Greenbackers, Democrats, and Independents, and does not even ask Republicans to vote for him.

William. C. Summers, a supporter of Lowe, a witness for Lowe, and an inspector of election, testifies, page 1353¾, that he is a Jackson Democrat, and Colonel Lowe claimed to be a Democrat, and that he had read some speeches of Colonel Lowe in which he claimed to be a Democrat, and heard his supporters talk so; and on page 1349½, O. H. P. Williams, a witness for Colonel Lowe, testified twice that Lowe in his speech abused the Republican party.

Mr. Milton also swears, page 320, he was a Democrat, and yet he was a worker for and voted for Colonel Lowe. He also swears that Deputy Marshal Stockton was a Democrat, but he also voted for Lowe, and he and two other Lo ve men were appointed as United States marshals to control the election at Hunt's Store.

Even Hertzler tried to pass himself off as a supporter of Wheeler in the hope it would help out his false testimony about Lanier's, and help to throw out that box.

He swears, page 184⅓, in answer to the inquiry if he did not vote for Lowe: "*No; I always vote the Democratic ticket.*" He afterwards was compelled to admit that he voted for Lowe, but said he always considered Lowe as a Democrat.

This character of evidence, which runs through the record, shows that Lowe's lawyers tried to make it appear that all the election officers who called themselves Democrats were supporters of Wheeler, when the fact was frequently the contrary.

Such evidence as this shows what was meant by their Democracy.

There is not a particle of positive proof that Mr. Harris supported or voted for Wheeler.

It must be borne in mind that this evidence of Mr. Reynolds was written down in short-hand by Mr. Buell, the friend of Colonel Lowe; yet even with this, Mr. Reynolds informs us of his opinion of the character of the man who became the box custodian.

He says of him, bottom of page 445: "He might say he voted for one man, and then not do it."

Mr. Reynolds also says, page 445⅓:

The general opinion was that he (Wheeler) was getting over the Democratic vote there.

The question, and what purports to be an ans
found on bottom of page 447, is easily explained.
has examined witnesses knows that frequently wh
they repeat the question in an interrogative mann
understood the question correctly.

This is particularly the case with reluctant witn
to make the best show possible for the party in wh
being examined. This was eminently the case her
peated the question verbatim, and Mr. Lowe's frien
writes down Mr. Reynolds's question, omitting the
and thus makes it appear that it was his answer.

This could not be corrected, because no one b
could read the short-hand notes; and therefore no
rapher could know with any certainty what was
hand marks.

Mr. Simmons, a Republican and a Lowe man,
witness for Colonel Lowe, was more willing to adm
carried off by one of the inspectors, and also says
next day they sorted out the tickets into three piles
to themselves, Greenback tickets to themselves, a
to themselves.

This certainly impaired Wheeler's chances to get
with his name on them counted for him.

When Wheeler heard this he felt it so keenly tha
protest against the counting of said box, which is
page 1062.

Had the contestee known of the other irregulari
included that in his protest?

Simmons mentions, page 455¾, three different elec
it as his opinion that Harris voted against the Dem

On page 453½ he stated that he said two or thr
day that Wheeler was getting a larger vote than he
thought so too.

Now, Mr. Beemer swears positively, page 1128,
Independent voter; and Mr. Jones swears, page 1
was accustomed to vote split tickets. Also T. A. T
1106, that John H. Harris, who acted as inspector a
2, claimed to be an Independent voter.

He also says that Harris supported Sam Houston
ald and Alex. Heflin in opposition to the Democra
be observed that this same Heflin swears, page 46
Democrat, but admits that at the last election (nam
voted the Greenback ticket; he also admits he wa
the Greenback ticket in August, 1880. See pp. 46

Now, this man Heflin, after giving testimony ag
shows falsity on its face, tries to bolster it up by th
ference that he was a Democrat. He was just as
men who supported him three months before, whe
backer for sheriff. This shows the object of Lowe's
the inspector a Democrat. They wished to create
the Courtland box was not manipulated to the det

Had Mr. Harris been put on the stand we cann
dence would have been. Mr. Reynolds says, "*He*
one man, and then not do it." Contestee could not
to make Mr. Harris a witness.

The fact that the box was carried off in violation

and it was Mr. Lowe's duty to have shown that its integrity was maintained. Mr. Lowe's lawyers were fully informed in the commencement of the taking of testimony-in-chief that the box was carried off and kept all night unlocked. If it had been possible for Mr. Lowe to have procured evidence to sustain the integrity of the box, it seems to us he would certainly have done so.

We respectfully submit that the evidence conclusively proves that Courtland box No. 2 was managed entirely by men who were at least not the friends and supporters of Wheeler.

Some may have been Hancock men, but certainly the evidence does not show they were Wheeler men.

When the ballots were partly counted out, one of these men claimed they had made a mistake, and to correct this they put all the ballots in a rough box, and Mr. Harris carried the box to his room, kept it all night, returned with it the next morning, when it appears from the evidence the ballots were easily though illegally counted in a very short period, when a report was made showing 419 votes for Lowe and 111 votes for Wheeler.

Mr. Lowe's friends admit that these inspectors worked from five o'clock, the time the polls closed, until two o'clock next morning, and during those nine hours they claim they had counted less than six hundred ballots.

These men wish the committee to believe that they acted with proper rapidity, and yet failed to count out 60 ballots an hour, when it is evident that all these ballots could have been easily counted out in two or, at most, three hours.

Above and beyond this, Mr. Lowe's witness, Mr. Simmons, page 453, swears that after counting nine hours they discovered they had made a mistake, and Mr. Lowe's other witness, Mr. Reynolds, swears, page 444, that after the nine hours they yet lacked right smart of completing the count.

Is it not clear that there was wrong connected with this box?

These ballots could have been easily counted out in two or three hours, and by seven or eight o'clock a correct report could have been completed, and yet we find these men at two o'clock in the morning had done nothing but count a part of the ballots, and the only result of these nine hours' work was the discovery that they had made a mistake.

The committee cannot see how it was possible these friends of Colonel Lowe discovered a mistake, when Mr. Reynolds says they lacked right smart of counting all the ballots.

Does it not show that all this dallying of nine hours gave an opportunity to corruptly tamper with the ballots?

Does it not show that the mistake discovered was that Wheeler had more ballots than some one wished him to have, and some one therefore found it necessary to secretly fix up the box to meet the requirements of Mr. Lowe's managers?

They did not have Wade Blankenship or William Wallace there to examine the wrists and sleeves of free Americans, and compel them to vote for Mr. Lowe, and the evidence is conclusive that at least a hundred Democrats, and at least a hundred Republicans, voted for Wheeler.

The Wheeler ballots were in the box, and the difficulty of changing them with five or six people present was staring them in the face.

We respectfully submit that there has never been stronger evidence before Congress assailing the integrity of a box than we have here presented.

If Mr. Reynolds had been a friend of Wheeler, would he have gone

voluntarily 43 miles to testify for Mr. Lowe? Wo
each effort to develop these facts, as his evidence
page 444.) His anxiety was so great that he swore
votes were counted fairly. He says:

> I watched over it myself.
> I saw it was done well.
> I was in the house.

And then he afterwards admits this was not true
of page 448:

> I was not absent but a few minutes during the counting in
> count.

And top of page 445 he says:

> Well, I was not there all the time, but I was there nearly a

We could go on with this discussion, but the Ho
mit that it requires nothing further to show that t
jected.

The evidence that the ballots were tampered wit
much stronger than at "*Arredonda poll*" (case of Bi
we might add that it is stronger than any other c
mittee.

The violation of law by the inspectors is proven
nesses, and most of the evidence is given by Repub

It proves positively that there was palpable viola
flagrant fraud at this box.

This fraud was distinctly charged in the answer
test, and it was proved by the evidence of numerou
one word of the evidence is in any way controverte

Harris was not called as a witness. Where he to
kept it; whether any person had access to it other th
he himself examined it, or did anything with it or
during these hours that it was away from its prop
subject to proper supervision—as to all these thi
a total blank, except as above alluded to and he
next morning Mr. Harris brought back what purp
he took away with him, and the contents of that
were, were counted, but we contend that the proof
lots did not remain the same, because the testimon
poll the contestee received at least 200 votes, whe
returned for him 111, thus showing that the count
respond with the ballots as cast. We submit, the
must be rejected, and this will deduct from the con
the contestee 111. Now, the box being rejected, as
then, according to all the rulings of the majority
other cases, and according to the plain law on this
are remitted to the proof of the ballots actually ca
ively, and it being proved that the contestee receiv
poll, this number should be added to his aggregate

Before concluding we feel it our duty to allude
evidence which Mr. Lowe has presented to the Com

Evidence by deposition is in derogation of com
by virtue of statute that such evidence can be use
bunals.

The supreme court of Pennsylvania, using the language which we find in every elementary work on evidence, said:

The taking of testimony by deposition is at best but a very imperfect way of arriving at the truth; every precaution should, therefore, be taken to guard against abuses.

We approve of this expression, and think that evidence taken with disregard of the statutory requirement should not be received.

We have alluded to this subject in referring to the depositions taken at Lanier's, but we think it requires a more special attention.

The following are the provisions of the Revised Statutes of the United States material to the point now under consideration:

SEC. 122. The officer shall cause the testimony of the witnesses, together with the questions proposed by the parties or their agents, to be reduced to writing in his presence and in the presence of the parties or their agents, if attending, and to be duly attested by the witnesses respectively.

SEC. 127. All officers taking testimony to be used in a contested-election case, whether by deposition or otherwise, shall when the taking of the same is completed and without unnecessary delay certify and carefully seal and immediately forward the same by mail addressed to the Clerk of the House of Representatives of the United States, Washington, D. C.

The corresponding provisions of the judiciary act of 1789 are in the following words:

And every person deposing as aforesaid shall be carefully examined and cautioned and sworn or affirmed to testify the whole truth, and shall subscribe the testimony by him or her given after the same shall be reduced to writing, which shall be done only by the magistrate taking the deposition, or by the deponent in his presence. And the depositions so taken shall be retained by such magistrate until he deliver the same with his own hand into the court for which they are taken, or shall, together with a certificate of the reasons as aforesaid of their being taken, and of the notice, if any, given to the adverse party, be by him, the said magistrate, sealed up and directed to such court and remain under his seal until opened in court.

The provision that the deposition must be reduced to writing in the presence of the officer is common to the contested-election law and the judiciary act of 1789.

It is obvious, therefore, that decisions of the Federal courts on the provision of the judiciary act for the writing out of the deposition will be authorities in cases which may come before this committee under the corresponding provision of the statute relating to contested elections.

In Bell *v.* Morrison, 1 Peters, 351, Judge Story, delivering the opinion of the court—

Held that, under section 30 of the judiciary act, a deposition is not admissible if it is not shown that the deposition was reduced to writing in presence of the magistrate.

In Edmonson *v.* Barrett, 2 Cranch C. C., 228, the plaintiff's attorney offered in evidence on the trial the deposition of John Marshall, of Charleston, South Carolina, taken before the Hon. John Drayton, district judge of the United States. The certificate of the judge was in the following words:

DISTRICT OF SOUTH CAROLINA, *ss:*

On this 28th day of May, 1818, personally appeareth the under-named deponent, John Marshall, of Charleston, merchant, before me the subscriber, John Drayton, district judge of the district aforesaid, and being by me carefully examined, cautioned, and sworn in due form of law to testify the whole truth and nothing but the truth, relating to a certain civil cause, &c., &c., he maketh oath to the deposition above written, and subscribes the same in my presence, the said deposition being first reduced to writing by the deponent.

The attorney for the defendant objected to the deposition on the ground that the judge had not certified that it was reduced to writing in his presence, as required by section 30 of the judiciary act of 1789.

then sent to Clearfield County and sworn to there. Now, although the character of the counsel in the present instance puts him above all suspicion of unfair dealing, yet it would be a practice of most dangerous tendency if depositions so taken were to be admitted as evidence. The counsel of the party producing the witness is the last person who should be permitted to draw the deposition, because he will naturally be disposed to favor his client, and it is very easy for an artful man to make use of such expressions as may give a turn to the testimony very different from what the witness intended. I know that depositions are sometimes taken in this manner by consent of parties; and when the counsel on both sides are present the danger is not so great; but in the present case there was no consent, nor was the counsel of the plaintiffs present. The rule of court is that the deposition shall be taken *before a justice;* it ought, therefore, to be reduced to writing from the mouth of the witness in the presence of the justice, though it need not be drawn by him; and in case of difference of opinion in taking down the words of the witness, the justice should decide. In chancery, if the counsel of one of the parties draws the deposition before the witness goes before the commissioners, it will not be permitted to be read in evidence. 1 How. Ch., 360. This certainly is a good rule; the taking of testimony by deposition is, at best, but a very imperfect way of arriving at the truth; every precaution should, therefore, be taken to guard against abuses. It is very clear to me that the mode in which the deposition of George Leech was taken is subject to great abuse, and should be put down at once. I am of opinion, therefore, that was very properly rejected."

See also the following cases: United States *v.* Smith, 4 Day, 121; Railroad Co. *v.* Drew, 3 Woods C. Ct., 692; Beale *v.* Thompson, 8 Cranch, 70; Shankriker *v.* Reading, 4 McL., 240; United States *v.* Price, 2 Wash. C. Ct., 356; Hunt *v.* Larpin, 21 Iowa, 484; Williams *v.* Chadbourne, 6 Cal., 559; Stone *v.* Stillwell, 23 Ark., 444.

The proof in this case shows:

1ST.

That 49 depositions found on pages 34 to 266, and 302 to 452 of the record in this case have no certificates at all, and the proof shows that they were not written out in the presence of the commissioner before whom it is claimed they were taken.

2D.

That exhibits were attached to some of these depositions which the witnesses did not see.

3D.

That exhibits were attached to depositions which were not correct copies of records which they purport to represent.

4TH.

That a transcript from the probate judge of Morgan County was changed, and that matter was written upon said transcript after it reached the hands of Mr. Lowe or his agents or attorneys, and the matter written thereon was made the basis of an argument in contestant's brief.

5TH.

That a false exhibit was filed with the record and printed in the record following the deposition of Lowe Davis, which false exhibit was made the basis of an argument in contestant's brief.

6TH.

That the affidavits attached to the motion to suppress show that the certificate attached to the deposition of Mr. Lowe was not written out

and attached to said deposition until several days after the date it p
ports to have been so written out and attached.

7TH.

That the so-called deposition of William Wallace, James Jones, J
Kibble, Alexander Jamar, and 50 other witnesses were never leg
signed.

8TH.

That the 110 so-called depositions found on pages 1264 to 1340 o
record are without any certificate whatever, and there is nothing in
record to show that any of the witnesses were sworn, or that a
the evidence was written down in the presence of any commissione

9TH.

That the so-called depositions taken before E. P. Shackleford ar
certified under his seal as required by law.

10TH.

That 171 so-called depositions which it is claimed were taken b
R. W. Figg, esq., were not certified and sealed and forwarded by
addressed to the Clerk of the House of Representatives.

The record shows that said so-called depositions reached the Cle
the House of Representatives through a corporation called an exp
company. It shows they were in a box which was not sealed in
way whatever.

It also shows that many of said depositions remained out of
hands of the commissioner before whom it is claimed they were ta
from two to three months before being so illegally transmitted to C
gress.

11TH.

The record also shows that depositions which were taken before
W. Brooks, found on pages 331 to 338, were not taken at a time wh
the law allowed said depositions to be taken, and it further shows th
contrary to law, they were transmitted to the Clerk of the House
Representatives by a corporation called an express company, and
by mail as required by law.

12TH.

The record shows that fifty witnesses, examined before A. J. Bentl
at Meridianville, were examined without giving contestee notice,
required by law.

That Mr. Lowe's attorneys gave contestee notice they would take s
evidence at or near Pleasant Hill, and upon said notice they proceeded
and did take said evidence at Meridianville, six miles from Pleasant H

That when the place of taking evidence was finally discovered by M
Wheeler's attorney, the commissioner refused to allow him to cro
examine some thirty witnesses who were examined after his arriv
and it further shows that Lowe Davis, the attorney for Mr. Lowe, wr
down the evidence, and in some cases wrote it down to convey a differe
and contrary meaning from that given by the witnesses, and the rec

shows that this illegally-taken evidence was not certified as required by law, and that it was not transmitted to Congress as required by law.

The record also shows, after Mr. Wheeler had facilitated Mr. Lowe's attorneys in taking evidence by acknowledging service to their notices to take testimony, these same attorneys used most extraordinary and unwarranted means to embarrass and delay Mr. Wheeler in his efforts to take testimony, and that by such means they in some instances stopped the contestee in his efforts to take testimony.

Mr. Wheeler made and filed proper and seasonable motion to suppress these depositions, supporting by affidavits such allegations as were not apparent on the record.

We think the 49 depositions which purport to have been taken at Huntsville before R. W. Figg, esq., and the 110 which purport to have been taken before him at Lanier's, and the 30 which purport to have been taken before A. J. Bentley, at Meridianville, should be suppressed and not considered in this case.

CONCLUSION.

We now make the following summaries of the legal votes to which the contestant and contestee are respectively entitled under the law and the evidence.

With regard to the illegal ballots counted for Mr. Lowe we find that 1,294 are proven by the inspectors or officers of election at the 32 precincts where they were cast, which are fully cited in a table which is found on page 54 of this report.

These witnesses were under the laws of Alabama the custodians of these ballots, and in most cases they corroborate their recollections by counting the ballots in the presence of the commissioner, and they then take one or more of the ballots from the box and put them in evidence by attaching them to their depositions.

There is some proof that in addition to the 1,294 illegal ballots there were also counted for Mr. Lowe as many as 1,734 illegal Weaver and Lowe ballots, but as the proof regarding these latter ballots is not as satisfactory as that regarding the former, we conclude to only consider the 1,294 proven by primary evidence.

Kinlock box.

The proof on this box is so positive and uncontradicted that we do not think the House will hesitate to deduct 16 votes from Mr. Lowe.

Unregistered voters.

An examination of the record shows that over 3,000 persons' names are found upon the poll-lists in 29 different precincts, which names are not found in the registration lists.

We also present a table, marked No. 2, by which we refer the House to direct and specific proof showing that 1,027 unregistered voters voted for Mr. Lowe.

Mr. Lowe was unable to and failed to prove that a single unregistered voter voted for Mr. Wheeler.

Table No. 2 gives pages in the record where the evidence is found, and also the name of at least one witness whose testimony is relied upon.

It is also shown by Table No. 1 that at the 29 polling places mentioned in said table 2,698 illegal unregistered persons voted.

But to do the contestant no injustice, we deduct 298 from the 2,698

Table No. 2 includes several boxes which are not included in Table No. 1, and we find that 486 unregistered men who are not included in Table No. 1 voted for Mr. Lowe.

Now, adding these 486 votes in Table No. 3 to the 884 obtained by the *pro rata* rule (see Table No. 1), we find that the total number of unregistered votes which must be deducted from the vote of William M. Lowe amounts to 1,370.

We therefore conclude that according to the proof in this case, there should be deducted from the vote of William M. Lowe 1,370 illegal unregistered votes.

As we have concluded that Courtland box No. 2 should not be counted, and as 189 of these unregistered votes were cast at that box, we must deduct these 189 illegal votes from the 1,370, leaving 1,181 unregistered votes exclusive of Courtland box No. 2.

But to be still further certain and do the contestant full justice, we make a further arbitrary reduction of 81 votes, and we decide to deduct 1,100 illegal unregistered votes from the vote of William M. Lowe.

Non-residents.

The proof shows that 81 non-residents of the State of Alabama voted for Mr. Lowe, and we think they should be deducted from the vote of William M. Lowe.

It is claimed by Mr. Lowe that the 9 votes which the inspectors at Laniers deducted from Mr. Wheeler, and the 2 votes which they deducted from him were not corrected by the county officers. This would make a difference of 7 votes against Mr. Wheeler.

The proof with regard to this matter is tainted by the fraudulent exhibit, which appears following the deposition of Lowe Davis.

It is also claimed by Mr. Lowe that Flint precinct was not counted in the returns of Morgan County, and that this precinct gave him 17 majority, but the proof regarding this matter is contradictory, and is tainted by a forgery, which the affidavit of the probate judge shows, was indorsed upon it after it went in the hands of Mr. Lowe or his attorneys.

If both these were allowed it would make a difference of 24 votes in favor of Mr. Lowe.

Minors.

The proof shows that 16 minors voted for Mr. Lowe, and we think that number should be deducted from his vote.

SUMMARY NO. 1.

Votes returned for Mr. Wheeler			12,808
Votes returned for Mr. Lowe		12,765	
From which deduct votes cast for Mr. Lowe by persons who were not registered	1,100		
Deduct illegal ballots proved to have been cast and counted for Mr. Lowe	1,294		
Deduct non-residents proven to have voted for Mr. Lowe	70		
Deduct minors proven to have voted for Mr. Lowe	10		
Deduct Kinlock box, illegally returned for Mr. Lowe	16		
Deduct Courtland box No. 2 (Lowe's majority)	308		
		2,798	
Mr. Lowe's legal vote		9,967	9,967
Mr. Wheeler's majority			2,841

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1274.

GENERAL DEFICIENCY BILL.

MAY 20, 1882.—Recommitted to the Committee on Appropriations and ordered to be printed.

Mr. HISCOCK, from the Committee on Appropriations, submitted the following

REPORT:

[To accompany the bill (H. R. 6243) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1882, and for prior years, and for those certified as due by the accounting officers of the Treasury in accordance with section 4 of the act of June 14, 1878, heretofore paid from permanent appropriations, and for other purposes.]

In presenting the regular deficiency appropriation bill, the Committee on Appropriations submit the following report in explanation thereof:

The bill is principally based on the estimates presented in House Ex. Doc. No. 33, being the annual deficiency estimates from the Treasury Department, and upon the estimates in House Ex. Doc. No. 26, claims allowed by accounting officers of the Treasury under the act of June 14, 1878, and House Ex. Doc. No. 202, and other estimates and letters amounting to about $4,000,000; of which there is recommended as follows: (See summary of the principal matters classified under appropriate headings below.)

The bill is made up in the following manner: The first section is based mainly on the House Ex. Doc. No. 33, and is largely for deficiencies in the appropriations for the current fiscal year; the second section includes most of the matter estimated for in House Ex. Doc. No. 26, and the third all that of House Ex. Doc. No. 202, except the Indian estimates. It should be stated that the original estimate under Executive Document 33 was $23,159,690.81, $20,000,000 of which was for pensions, which has been disposed of; the estimate has also been reduced by a revision of the Indian Affairs estimate, upon which many of the amounts had been disposed of in H. R. 4221 and otherwise; the Indian estimate was reduced from $782,342.21 to $91,258.22, so that the Ex. Doc. 33, as relates to this bill, stood at $2,468,606.02; $292,197.51 was provided for in H. R 4221, and $135,554.79 was disallowed.

There is also appropriated in the first section the additional sum of $2,132,767.22, based upon department letters, manuscript, and printed and other letters and applications.

SUMMARY RECAPITULATION OF AMOUNTS IN BILL.

For the Department of State (including Yorktown Centennial, $32,328.92)	$62,982 88
Treasury and miscellaneous	129,425 30
Court of Claims	340,938 00
Internal revenue	278,000 00
Repayment to importers	300,000 00

APPENDIX.

DEPARTMENT OF STATE,
Washington, May 16, 1882.

SIR: I have the honor to acknowledge the receipt of your letter of the 12th instant, in relation to the proposed compensation of Mr. Chester Holcombe for his services in the negotiation of the late treaties with China. In reply to your inquiry, I have to say that the law authorizing employment is contained in the act making appropriations for the consular and diplomatic service for the year ending June 30, 1881, approved May 14, 1880 (21 Statutes at Large, 133, 134), and provides, "For one secretary to the commission, four thousand dollars." Under this act Mr. Pethick was appointed secretary. He declined, and Mr. Holcombe, the secretary of legation at Peking, was appointed in his place. He has been paid his salary as secretary and interpreter of legation. The accounting officers of the Treasury have doubts whether he can also receive the salary as secretary of the commission. The proposed provision is to interpret the existing law so as to warrant the payment to him of money already appropriated as compensation for work performed by him in addition to the work required of him as secretary of legation and interpreter.

I have the honor to be, sir, your obedient servant,

FRED'K T. FRELINGHUYSEN.

Hon. FRANK HISCOCK,
Chairman of the Committee on Appropriations, House of Representatives.

DEPARTMENT OF STATE,
Washington, March 6, 1882.

SIR: I have the honor to state that I have received a communication from the Secretary of War, from which it appears that the officer of the Army detailed by him to take charge of the military ceremonies at the Yorktown centennial celebration, expended in the entertainment of the guests of the nation on that occasion, at Yorktown, the sum of $1,065.78. This expenditure was made with the expectation that the amount would be paid out of the appropriation for the expenses of the celebration, under an arrangement between the War Department and the then Secretary of State, but the matter was lost sight of, and the appropriation being now exhausted, there are no funds at my disposal for the payment of the very moderate and necessary expenses incurred under instructions issued by the Secretary of War. I therefore earnestly recommend that an appropriation be made to reimburse the proper officer the above sum, which has been actually expended for the entertainment of the guests of the nation.

I have the honor to be, sir, your obedient servant,

FRED'K T. FRELINGHUYSEN.

Hon. FRANK HISCOCK,
Chairman of the Committee on Appropriations, House of Representatives.

YORKTOWN CENTENNIAL COMMISSION,
Washington, D. C., April 10, 1882.

SIR: I have the honor to state that the commission created by the act approved March 3, 1881, and of which I have the honor to be chairman, were compelled, in order to carry out the provisions of that act, and of the act of June 7, 1780, of which it was amendatory, to incur a deficiency in the name of the commission, which remains unpaid, to the amount of $22,925.76.

In behalf of the commission I respectfully request that the necessary appropriation be made to discharge the same.

Accompanying this I inclose the acts of Congress under which these expenses were

OFFICE OF THE POTOMAC STEAMBOAT COMPANY,
Washington, D. C., April 10, 1882.

SIR: Understanding that the Committee on Appropriations is about to take up the deficiency bill, I beg leave to call attention to the claim of this company, constituting an item of $3,114 thereon.

By the contract between this company and the Yorktown Centennial Commission of June 16, 1881, and supplement thereto of October 12, 1881, it was agreed that $3,000 of the charter money of the steamer Excelsior, chartered by the commission of this company, should be paid as soon as the commission "shall have funds sufficient for the purpose, or the same shall be provided by act of Congress."

The Yorktown Centennial Commission being short of funds, this sum of $3,000 has never been paid.

I submit herewith a copy of the contract, but shall not further enlarge on the merits of this claim, believing that only examination is needed to satisfy the Committee on Appropriations that it is just and proper. The sum of $114 additional is for extra transportation, some of it prior to the period for which the steamer was chartered.

The whole claim I understand is approved by Col. H. C. Corbin and the officers connected with the Yorktown Centennial Commission.

I have the honor to be your obedient servant,

CHARLES CHAUNCEY,
President Potomac Steamboat Company.

Hon. FRANK HISCOCK,
Chairman of Committee on Appropriations.

P. S.—I beg leave to call attention to the indorsement of the Hon. John W. Johnston, chairman Yorktown Centennial Commission, on the copy of the contract herewith submitted.

DEPARTMENT OF STATE,
Washington, February 16, 1882.

SIR: Referring to the estimate of five thousand dollars submitted to Congress by this department for the expenses of the international commission for the establishment of electrical unity, I have the honor to lay before your committee a copy of a communication from Prof. George F. Barker, of the University of Pennsylvania, explanatory of the character of the work which the international commission proposes to undertake.

In view of the deep interest which is felt in this subject by men of science, and practical electricians in America, and of the important bearing which the proposed investigations have upon the progress of science and the development of industry in this country, I beg to commend to your favorable consideration the views expressed by Professor Barker on the subject in his above-named letter, particularly as to the sum of money which will be required to make the necessary experiments.

It will be observed that the American members of the commission are willing to serve without compensation, provided their necessary expenses are defrayed.

I have the honor to be, sir, your obedient servant,

FREDK. T. FRELINGHUYSEN.

Inclosure: (Prof. George F. Barker to Mr. Brown, dated February 2, 1882. Copy.)

Hon. FRANK HISCOCK,
Chairman of the Committee on Appropriations,
House of Representatives.

PHILADELPHIA, *February*, 2, 1882.

SIR: In response to your letter of January 8, I have to say:

That the International Congress of Electricians, in session in Paris, in September last, voted to create an international commission to be "charged with determining, for practical purposes, the length of a column of mercury a square millimeter in cross-section, which at the temperature of zero centigrade, represents the value of the ohm."

That the congress requested the French Government to confer with the other powers with reference to the appointment of a commission charged with the researches necessary to establish these units.

That in October, the Hon. L. P. Morton addressed a communication to Mr. Secretary Blaine, stating the receipt of a communication on this subject from the minister

last:

"*Resolved*, That the formation of an international commission upon elect as suggested by the International Congress of Electricians lately in sessio receives the cordial indorsement of the National Academy of Sciences. Ar academy urges upon Congress the necessary appropriation to enable the n this academy, already appointed on this commission through the Departmer to carry out the needed experimental determinations with credit to the co

That in view of the present great importance of electrical matters in th the United States cannot afford to be unrepresented in an international c created to fix definitely the units by which electricity is measured. The named on the part of the United States are willing to serve without com provided the necessary expense be defrayed. The first problem propose termine the value of the unit of resistance by ascertaining with all attain racy the length of the column of mercury of one millimeter cross-secti at zero centigrade has this resistance. To make this determination require refined means at the disposal of science. Our estimate of the cost of the necessary to make this measurement, together with the subsidiary investi volved in it, including the expense of the determination itself, will not, w exceed $10,000.

In the hope that this communication may be of service, I beg to remain,

Your obedient servant,

GEORGE F. BA

Mr. SEVELLON A. BROWN,
Chief Clerk, Department of State.

TREASURY DEPARTME
April

SIR: I have the honor to transmit herewith, with favorable recommendat of a communication received from the First Comptroller of the Treasury r that an allowance of $1,000 each be made to two clerks employed in his office and valuable services rendered by them beyond the usual office hours during year; and in connection therewith to invite attention to a similar commu transmitted to your committee on the 23d of February last.

I would suggest that this item may properly be considered in connection recommendation of the department of January 25, 1882, for an appropriation as additional compensation to other employés of the department.

Very respectfully,

CHAS. J. FOLGE
Sec

Hon. FRANK HISCOCK,
Chairman Committee on Appropriations, House of Representatives.

I stated, in the letter referred to, that these gentlemen "have, during the past year, rendered services almost daily beyond the usual office hours," and that "these services in character are much more valuable than ordinary clerical services"; yet their regular compensation is only at the rate of sixteen hundred dollars ($1,600) each per annum.

I alluded in my last annual report to the steady increase of the daily work in this office, and the difficult questions of law which are constantly arising in the settlement of claims involving immense demands upon the National Treasury. It is impossible, without the aid of special legal ability and of familiarity with the administration of the fiscal system of the government, to give to the multitude of such questions the thorough investigation necessary to their correct determination and to the protection of the Treasury. I have received from Messrs. Arthur and Brannigan the benefit of these rare qualities; and as the regular salaries which they receive do not form an adequate compensation for the exercise of such qualities, even during the customary office hours, I trust that the recommendation above made will be favorably acted on by Congress.

I have the honor to be, very respectfully,

WM. LAWRENCE,
Comptroller.

Hon. CHARLES J. FOLGER,
Secretary of the Treasury.

TREASURY DEPARTMENT, FIRST COMPTROLLER'S OFFICE,
Washington, D. C., February 21, 1882.

SIR: It is understood that the Secretary of the Treasury has called the attention of Congress to the fact that while the five and six per cent. government bonds were being converted into the extended three-and-a-half per cents., a large number of clerks in the Treasury Department rendered services beyond the usual office hours in order that, if deemed proper, provision might be made for giving them additional compensation.

In this connection I respectfully call your attention to the fact that two of the clerks in my office, John Arthur and Felix Brannigan, the latter of whom has been assigned to duty in this office from the office of the Commissioner of Internal Revenue, have, during the past year, rendered services almost daily beyond the usual office hours. Mr. Brannigan was assigned to duty here as a law clerk, in which capacity he has been very efficient and useful; and I deem it but just that compensation should be made to him for the additional time over the usual office hours in which he has rendered services. I make the same recommendation as to Mr. Arthur, who has rendered valuable and efficient services in verifying authorities and citations made in my written opinions and decisions, in correcting proof from the printers, and otherwise aiding in their publication. These services in character are much more valuable than ordinary clerical services, and it seems to me that provision should be made for compensation with reference to that fact.

I have the honor to be, very respectfully,

WM. LAWRENCE,
Comptroller.

Hon. CHARLES J. FOLGER,
Secretary of the Treasury.

TREASURY DEPARTMENT,
February 23, 1882.

SIR: I have the honor to forward herewith, for the consideration of your committee, copy of a communication from the First Comptroller of the Treasury of the 21st instant, requesting that provision be made for compensation to certain employés in his office for additional services rendered by them beyond the usual office hours during the past year.

Very respectfully,

CHAS. J. FOLGER,
Secretary.

Hon. FRANK HISCOCK,
Chairman Committee on Appropriations, House of Representatives.

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., April 7, 1882.

SIR: I have the honor to transmit herewith, with favorable recommendation, copy of a communication received from the First Comptroller of the Treasury, requesting that an allowance of $1,000 each be made to two clerks employed in his office, for extra and valuable services rendered by them beyond the usual office hours during the past year; and in connection therewith to invite attention to a similar communication transmitted to your committee on the 23d of February last.

I would suggest that this item may properly be considered in connection with the recommendation of the department of January 25, 1882, for an appropriation of $7,570 as additional compensation to other employés of the department.

Very respectfully,

CHARLES J. FOLGER,
Secretary.

Hon. FRANK HISCOCK,
Chairman Committee on Appropriations, House of Representatives.

TREASURY DEPARTMENT,
FIRST COMPTROLLER'S OFFICE,
Washington, D. C., April 5, 1882.

SIR: Referring to my letter to you of February 21st last, in which I stated briefly the reasons for allowing additional compensation for extra and valuable services to two clerks in this office, John Arthur and Felix Brannigan, I would respectfully recommend that such compensation should be not less than one thousand dollars ($1,000) to each of them.

I stated in the letter referred to that these gentlemen "have, during the past year, rendered services almost daily beyond the usual office hours," and that "these services in character are much more valuable than ordinary clerical services;" yet their regular compensation is only at the rate of sixteen hundred dollars ($1,600) each per annum.

I alluded in my last annual report to the steady increase of the daily work in this office, and the difficult questions of law which are constantly arising in the settlement of claims involving immense demands upon the national Treasury. It is impossible, without the aid of special legal ability and of familiarity with the administration of the fiscal system of the government, to give to the multitude of such questions the thorough investigation necessary to their correct determination, and to the protection of the Treasury. I have received from Messrs. Arthur and Brannigan the benefit of these rare qualities; and as the regular salaries which they receive do not form an adequate compensation for the exercise of such qualities, even during the customary office hours, I trust that the recommendation above made will be favorably acted on by Congress.

I have the honor to be, very respectfully,

WM. LAWRENCE,
Comptroller.

Hon. CHARLES J. FOLGER,
Secretary of the Treasury.

TREASURY DEPARTMENT,
OFFICE OF INTERNAL REVENUE,
Washington, April 4, 1882.

SIR: I am in receipt of a letter from Hon. Frank Hiscock, chairman of the Committee on Appropriations, addressed to you on the 1st instant, and by you referred to this office, in regard to the deficiencies in the appropriations for the internal-revenue services for the balance of the present fiscal year, and note the inquiries made in said letter. The question is asked, "Why was a less sum estimated for for 1882 than was expended in 1881, and upon what basis was the estimate for 1882 made, and what has occurred since the making of that estimate rendering an increase in the appropriation for the current year necessary?"

In reply, I will state that the estimate for the fiscal year 1882 was made and sent to the honorable Secretary of the Treasury October 16, 1880, and was based upon the business of the preceding year. This estimate was $67,000 more than had been estimated for the preceding year.

1881; and also from July 1, 1881, to April 1, 1882, being first nine months of fiscal year ending June 30, 1882.

Very respectfully,

CHAS. J. FOLGER,
Secretary.

Hon. FRANK HISCOCK,
Chairman of the Committee on Appropriations, House of Representatives.

A BILL to continue the printing of internal-revenue stamps.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is hereby authorized to continue the work of printing and preparing internal-revenue stamps for a period of thirty days from and after the passage of this act, in advance* of appropriations to be hereafter made, and the accounts of the Bureau of Engraving and Printing for the work finished and delivered by it may be audited and settled by the proper officers of the Treasury Department; and a sufficient amount of money, not exceeding $50,000, in the Treasury, not otherwise appropriated, is hereby appropriated for said purpose. All sums expended under this act shall be charged to and be deducted from any deficiency appropriation made for this service during the present fiscal year.

TREASURY DEPARTMENT,
May 8, 1882.

SIR: I have the honor to inform you that the public buildings at Fall River, Mass. Hartford, Conn., Harrisburg, Pa., Nashville, Tenn., and Utica, N. Y., are ready for the chandeliers and other gas-fixtures and that there being no available appropriation for "furniture and repairs of furniture for public buildings" it will be necessary to make provision at this session of Congress for these fixtures.

The bids received under advertisement for these fixtures aggregate $17,074.10, and I would request that an appropriation of this amount be made.

Very respectfully,

CHAS. J. FOLGER,
Secretary.

Hon. FRANK HISCOCK,
Chairman Committee on Appropriations, House of Representatives.

TREASURY DEPARTMENT,
March 28, 1882.

SIR: On page 7 of the estimates of deficiencies made by this department, printed in Executive Document No. 33, of the present session, is an item of $60,000 to enable the Secretary of the Treasury to pay what are known as claims in the charges and commissions cases.

This estimate was based upon the best data attainable at the time it was made up. Later information indicates that the claims still due, and which will have to be paid, largely exceed the amount of the estimate.

I inclose herewith copies of two letters from counsel representing claimants, and have to request that the estimate in question be changed from $60,000 to $150,000, as in any event no more would be paid from the Treasury than is found to be due to the respective claimants.

Very respectfully,

CHAS J. FOLGER,
Secretary.

Hon. FRANK HISCOCK,
Chairman Committee on Appropriations, House of Representatives.

---

* Or in anticipation.

NEW YORK, *March* 21, 1882.

DEAR SIR: We have heard indirectly that upon the recommendation of General N. M. Curtis you have asked Congress to appropriate $60,000 for the payment of the remaining charges and commissions cases. We do not know, of course, about any other cases than our own, nor the exact amount of those. But from the best information we have, we believe the two cases in which we are the attorneys for the plaintiffs involve more than $60,000, possibly $70,000. We therefore respectfully submit that in asking of Congress an appropriation for this particular class of cases you bear in mind that we represent the above cases.

Yours, respectfully,

MARSH, WILSON & WALLIS.

Hon. CHARLES J. FOLGER,
Secretary of the Treasury.

NEW YORK, *March* 23, 1882.

DEAR SIR: My attention has been directed to the amount of an appropriation ($60,000) to pay charges and commissions cases, which I understand has been asked for of the Appropriation Committee by you, upon the recommendation of General N. M. Curtis. Of course, in the absence of any other information on the subject, you could not well do otherwise than rely, in some measure at least, on his estimate. It is proper, however, that I should state, as the attorney for the plaintiff, in quite a number, a large majority in *number* of the remaining cases of that description, that it is my belief that it will require nearer $160,000 than $60,000 to pay what remains of these cases.

It was my misfortune to differ from General Curtis, and to incur his bitter and relentless hostility, and refusal to adjust my cases, because I declined to submit to the conditions he exacted and obtained from a certain other attorney, viz: First. The discontinuance of all cases in which he believed no duty on charges and commissions could be recovered. As those cases involved also the claim for excess of fees I did not feel inclined to submit to his terms, and the result has been the blocking and, I believe, the gross misrepresentation of my cases.

I mention this that you may understand his motive in estimating the amount remaining to be paid. I hope, therefore, you will increase your application to at least $150,000, for I understand there are two or three large cases in the hands of other attorneys, which alone will amount to $50,000 or $60,000.

Very respectfully, your obedient servant,

ALMON W. GRISWOLD.
Attorney for Plaintiffs.

Hon. CHARLES J. FOLGER,
Secretary of Treasury.

TREASURY DEPARTMENT,
Washington, D. C., April 7, 1882.

MY DEAR SIR: I have the honor to hand you a letter to me from one William H. Johnson, asking that I recommend legislation in his behalf. It seems that he has made advances to certain persons in New York City who acted officially in the service of the United States as supervisors of election. These advances were made to pay to them the amount of their salaries or wages for their services as such officials. Johnson took the drafts of these persons on the Treasury, or, in some way, some paper that was in legal effect an authorization for him to receive their money in their stead. But as this paper was taken before their claim for the money had passed the auditing officers of the Treasury Department, he ran foul of section 3477 Revised Statutes, and payment to him has been declined, though, as I understand, the claim of the persons to whom he made the advances has been audited and allowed—declined for the want of an assignment or authority subsequent to the allowance of the claim. As the men who acted as supervisors are much scattered, it is difficult for him to now get assignments or powers of attorney. Hence his request for legislation that he be paid the amount of the drafts or assignments that he now holds on giving them up as vouchers.

A section or paragraph to be inserted, if deemed proper, in the appropriation bill is here submitted.

The matters on which satisfaction should be had are these: That he did *bona fide* advance to the several persons the sums that he claims; that he has the genuine drafts or assignments, or orders to pay, of those persons; that they represent respect-

ively no more than the persons whose names purport to be fixed to them were entitled to respectively.

Very respectfully, &c.,

CHAS. J. FOLGER,
Secretary, &c.

Hon. FRANK HISCOCK, M. C.,
Chairman, &c.

TREASURY DEPARTMENT,
March 8, 1882.

SIR: I have the honor to inclose herewith, for the favorable consideration of your committee, copy of letter of the Treasurer of the United States, of March 7, 1882, transmitting letter of F. E. Spinner, late Treasurer of the United States, requesting relief from liability on account of the theft of $47,097.65, of the funds of the government, June 2, 1875, and the deficit of $650.61 therein, February 18, 1875, both occurring during his incumbency of said office, and for which he is still held accountable under his bond on the books of the department.

In order to extend the relief asked, I would respectfully recommend that the following clause be inserted in the deficiency bill now pending:

"That the Secretary of the Treasury be, and he is hereby, authorized and directed to credit Francis E. Spinner, late Treasurer of the United States, with the sum of forty-seven thousand and ninety-seven dollars and sixty-five cents, amount of the deficiency of June second, eighteen hundred and seventy-five, carried to his debit on the books of the Register of the Treasury, per Auditor's report numbered two hundred thousand nine hundred and twenty-five; and he is further authorized and directed to pay to the Treasurer of the United States, out of any moneys in the Treasury not otherwise appropriated, the sum of six hundred and fifty dollars and sixty-one cents, to reimburse said Treasurer for an amount appearing on his books as a deficiency and known as the deficiency of February eighteenth, eighteen hundred and seventy-five."

A copy of the letter of Mr. Spinner referred to is transmitted herewith.

Very respectfully,

CHAS. J. FOLGER,
Secretary.

Hon. FRANK HISCOCK,
Chairman Committee on Appropriations, House of Representatives.

TREASURY OF THE UNITED STATES,
Washington, March 7, 1882.

SIR: At the request of Hon. F. E. Spinner, of Jacksonville, Fla., formerly Treasurer of the United States, I have the honor to forward herewith his letter addressed to you, under date of the 27th ultimo, in which he narrates the circumstances attending the loss, while he was Treasurer, of certain sums of public money, and asks favorable action on your part in recommending that Congress extend him relief by inserting a clause in some appropriation bill authorizing a credit of $47,748.26 upon the books of the Treasury Department.

The records and information in possession of this office show that the statements contained in the letter in question are correct.

Of the many precedents established by Congress in extending relief in similar cases to fiscal officers of the government, the following recent instances are referred to:

Act March 3, 1871 (16 Statutes, 516), to reimburse F. E. Spinner for amount of deficit paid by him; clause in the deficiency appropriation act.

Act March 5, 1874 (18 Statutes, 532), relief of Thomas Hillhouse, Assistant Treasurer United States, New York.

Act June 9, 1880 (21 Statutes, 553), relief of George Eyster, Assistant Treasurer United States at Philadelphia.

Act March 2, 1881 (21 Statutes, 638), relief of Charles Clinton, late Assistant Treasurer United States, New Orleans.

Act February 11, 1882 (Private Laws, No. 3), relief of T. P. Chandler, late Assistant Treasurer United States at Boston, Mass.

Very respectfully, your obedient servant,

JAMES GILFILLAN,
Treasurer United States.

Hon. CHARLES J. FOLGER,
Secretary of the Treasury.

for four years. Subsequently a new trial was granted by the court in general term, but in the mean time Halleck was discharged on his own recognizance, he testifying in the criminal suit against Ottman.

Ottman was indicted for the larceny of the $47,097.65, and also for receiving the same money knowing it to have been stolen. These indictments were subsequently consolidated and twice tried together, the jury upon each trial failing to agree. The last trial was in 1877, since which time no step has been taken in the cases.

At the time the criminal proceedings were instituted a civil suit was brought against Ottman in the supreme court of the District of Columbia, for the recovery of the amount of the stolen money, and an attachment issued, returned executed upon property comprising—

A horse and mare, appraised at $1,000, subsequently sold under order of court and the proceeds paid into the registry of the court, where it now remains.

The stock and fixtures of a bar-room, appraised at $797.85, which were subsequently released to the defendant upon his entering into a bond with sufficient sureties to make good the value of the property in the event of a judgment against him.

Certain real estate in the city of Washington, standing in the name of the defendant, but which proved to be encumbered to the amount of its value.

A motion to quash the attachment prevailed in the court of first instance, but this decision was reversed by the general term, to which the case was appealed by the United States. The reversal was entered on 21st May, 1877, since which time no step has been taken in the case, except the payment into the court of the proceeds of the sale of the horses, and the release of the other personalty under bond, as stated above.

In connection with the criminal proceedings the police authorities of the District of Columbia obtained possession of the sum of $19,525, of which $14,500 was obtained from the German Banking Company of Alexandria, Va., where it had been left as a special deposit by Ottman; $1,025 was found upon the person of the defendant, and $2,950 and $1,050, respectively, recovered from A. M. Proctor and Theo. W. Brown, two persons alleged to have received this money of Ottman for the purpose of having the notes, which were of large denominations, changed, and their identity lost. This $19,525 is now in the hands of the Treasurer of the United States as a special deposit, subject to the order of the Commissioners of the District of Columbia, the title to it being involved in the pending criminal prosecutions.

In addition to the foregoing, there was attached $10,000 on deposit in the German Banking Company, in Alexandria, in the name of Ottman, and also certain shares in said banking company and in the Alexandria Marine Railway Company, amounting in approximate value to $2,000. No conclusion has been had to these proceedings, which await the result of the criminal proceedings against Ottman.

It will be seen that by the prompt action taken by the government the guilty parties were apprehended, and nearly enough money and property secured and levied upon to make good the robbery.

That the money in question, or the greater part of it, is a portion of the identical money stolen from the cash-room by Halleck, and by him turned over to his accomplice, Ottman, there can be no doubt, and it is not doubted that with a proper hearing and with an honest jury the ultimate result will be the restoration to the Treasury of money clearly its property and the punishment of the receiver of the stolen money.

DEFICIENCY OF FEBRUARY 18, 1875.

There is carried on the books of the Treasurer of the United States an amount of $650.61 stated as the deficiency of February 18, 1875, and occurring as follows:

On that date, in the redemption division of the office, it was found that there was a "short," of $1,000 in the canceled money ready to be delivered for destruction. Diligent search failed to recover the amount missing, and it was believed that the money lost was notes of a large denomination, possibly one note only, which may have been lost or mislaid. Being canceled, it was of no value to a finder, as it could not be used or passed. The report of the committee of examination at the time of my retirement from the Treasurer's office, on the 1st July, 1875, said committee consisting of Dr. John B. Blake, S. E. Middleton, R. H. T. Leipold, and others, contains the following:

"The stolen package of $1,000 consisted of notes that had been canceled, preparatory to sending them to another division for final count and destruction by maceration."

This original deficit of $1,000 was reduced by an amount of $349.39 found "over" in the count made by the committee, so that the actual deficit was $650.61 as stated.

At the time of this count and examination the committee stated the liabilities of the Treasurer's office at Washington to be $262,152,429.01, and in their report the committee says.

"With the exception of the deficiencies and excesses noted, and which, outside of the sealed package stolen from the cash room on June 2, 1875, and the package of can-

STATE ASYLUM FOR INSANE CRIMINALS,
Auburn, N. Y., April 19, 1882.

SIR: In response to your favor of 17th April, I hand you, inclosed, a statement showing the names of insane United States convicts in this asylum, chargeable to the United States for maintenance, together with amount due for each to the end of the government fiscal year, viz, June 30, 1882, except in the case of James Minor, charged to date of death and including burial expenses.

As these patients are all suffering from chronic, incurable insanity, I would respectfully suggest that provision be made for their support to the end of the fiscal year 1883. Should you require information more in detail respecting these patients, it will be promptly furnished.

Respectfully, yours,

CARLOS F. MACDONALD,
Superintendent.

Hon. BENJAMIN H. BREWSTER,
Attorney-General U. S. A., Department of Justice, Washington, D. C.

STATE OF NEW YORK.
STATE ASYLUM FOR INSANE CRIMINALS, AT AUBURN, N. Y.,
Medical Superintendent's Office, April 19, 1882.

To the Hon. BENJAMIN H. BREWSTER,
Attorney-General of the United States of America:

SIR: The following table contains a correct list of the patients in this asylum chargeable to the United States Government for care and support, as authorized by United States Laws of general nature, No. 99, approved June 23, 1874, and by agreement in pursuance thereof between Hon. E. Pierrepont, United States Attorney-General, and James W. Wilkie, M. D., medical superintendent, February 21, 1876.

Name.	Date and term of sentence.	By whom sentenced.	Date of expiration of sentence by commutation.	Date of expiration in this asylum.	From where received.	Time due for, and rate of support.	Amount.
William H. Rhode	November 11, 1871, 7 years.	Judge Benedict, U. S. district court.	August 11, 1876	Nov. 10, 1875	Kings County Penitentiary.	345⅞ weeks to July 1, 1882, at $4.50	$1,553 78
Thomas Wright	May 15, 1876, 9 years.	Judge Wallace, N. district court.	April 14, 1882	July 5, 1877	Albany Penitentiary	52 weeks to July 1, 1882, at $4.50	234 00
Charles Grandison	June 29, 1875, 5 years.	Judge unknown, supreme court, D. C.	June 29, 1879	July 8, 1878	do	178⅝ weeks to July 1, 1882, at $4.50	844 07
James Minor	July 6, 1877, 1 year 6 months.	do	Died Nov. 6, 1878	Oct. 2, 1878	do	6⅛ weeks to November 6, 1878, $27.64	34 14
Do						Burial expenses 6.50	
Frank Sivver *alias* George Slevin.	April 8, 1878, 3 years	do	August 8, 1880	Apr. 7, 1879	Albany Penitentiary	168⅜ weeks to July 1, 1882, at $4.50	757 93
Total							3,423 92

CAYUGA COUNTY, *ss:*

Carlos F. MacDonald, medical superintendent of State Asylum for Insane Criminals, in said county, being duly sworn, deposes and says, that the items of the above account are correct and that the disbursements and services charged therein have in fact been made or rendered, and that no part thereof has been paid or satisfied.

——— ———,
Medical Superintendent.

Subscribed and sworn before me this 19th day of April, 1882.

C. W. PILGRIM, *Clerk.*

NAVY DEPARTMENT, *May* 26, 1879.

R SIR: Having learned that a suit against you for an alleged libel is to be tried city of Baltimore next week, I deem it necessary to address you this communi- in order to place you in possession of the views entertained by the department subject, and to express the interest it feels in the result, on account of the ter of the communication out of which the suit has grown.

w days ago I was solicited by the attorneys for the plantiff to produce in court ginal of this communication, or, in the event of my declining, to furnish them certified copy. I declined to permit the original to be removed from the Navy ment, inasmuch as that is the place provided by law for its safe keeping, and retary is made the custodian of all the records, which he can keep nowhere else; id not then consider myself at liberty to refuse a certified copy, which I sup- e plantiff will offer as secondary evidence upon the trial. If I had, however, time, fully considered the effect of this, and had been aware of the judicial de- pon the precise question, I would have declined to furnish the copy unless com- o do so by order of a court of the United States.

nterest of the department in the result of this trial, arises out of the fact that mmunication which is charged to be libellous was made by you in express obe- to Chapter XXII, Article 9, of the Regulations for the Government of the Navy, directs that all officers who are required to forward communications to "higher ty" than themselves, shall "state their opinions in writing, by indorsement or ise, in relation to every subject presented for decision." An omission there- your part to forward this communication along with the other papers would en an act of official negligence, for which you would have been liable to censure. much, consequently, as your communication had reference to public business, as imposed upon you by your official duty, it ought undoubtedly to be con- as confidential, and therefore privileged. It was not published in any legal but locked up among the records of the department. Its only design was to department in possession of necessary information to be used in the trans- of public business, and it is evident, therefore, that if you are found guilty of in this case it must hereafter deter others in their discharge of like official From such a full performance of their duties as the public interests require of I can scarcely suppose that the court will permit this copy of the communica- be used in evidence against you, on account of the privileged character of the l. Yet a sense of duty to the public service, as well as to yourself as an officer Navy, prompts me to suggest these views of the department for your guidance, ich as the pending action is against yourself, individually, and not in such form ntitle the department to be heard at the trial.

Very respectfully,

R. W. THOMPSON,
Secretary.

Admiral JOHN L. WORDEN, U. S. N.,
Washington, D. C.

UNITED STATES ATTORNEY'S OFFICE,
Baltimore, May 5, 1882.

DEAR SIR: In reply to your request for an expression of opinion as to the case rrice *v.* Worden, I have to say that by direction of the Attorney-General I as- in the defense of the case after its removal to the circuit court of the United

proof was clear that the alleged libel was simply an indorsement on the resig- of Maurice, made in compliance with the rules of the Navy.

court of appeals, of Maryland, had decided before the removal of the case to the l court, that the communication was only *quasi* privileged, and that the defend- s liable if it was false and proceeded from malice. The United States court elf bound by this decision and adopted it.

Navy Department having inadvertently furnished the plaintiff with a copy of ignation, and the indorsement thereon by defendant, which constituted the al- ibel, they were put in evidence. The court held that there was no evidence of or want of probable cause, and instructed the jury to find for defendant, which ne and judgment entered thereon.

evidence clearly justified Admiral Worden in what he did.

as been, I think, a much injured man. He acted all through as an officer and leman, and deserves credit and not loss for what he did.

Very truly,

A. STIRLING, JR.,
United States Attorney.

N H. THOMAS, Esq.

In the Circuit Court of the United States for t
term, 1880.

BERNARD MAURICE }
vs. }
JOHN L. WORDEN. }

This was a suit claiming $20,000 damages for
cial report made by the defendant as Superinten
napolis, to the Secretary of the Navy, containing
resignation by the plaintiff, of his position as teac
The pleas were not guilty and limitations. Pla
guilty, and replied to that of limitations that h
cause of action by the fraud of the defendant.
At the trial the court instructed the jury that t
plaintiff was entitled to recover, and that thei
Jury sworn 6th Decr., 1880. On the 13th day of
accordingly, and judgment thereon was entered
January, 1881.
Defendant's costs.....
(In pencil:) Cost of certificate.....

(In pencil) .....

I hereby certify that the foregoing is a true stat
tried in the above-entitled case, and of the verdic
from the papers and docket entries.
In testimony whereof, I hereto set my hand an
court, this 5th day of May, A. D. 1882.
[SEAL.]

SIR: I have the honor to represent to your hono
of September, 1875, I entered into a contract wi
Capitol, for improving the Capitol grounds—*i. e.*, fo
in the completion of said grounds. At the time
pected and believed that sufficient funds would be
in, not to exceed, two or three years thereafter.
Congress to appropriate sufficient funds within th
work is still unfinished. I could have, within t
contract, completed the entire work, had sufficie
to pay me for the work. There is, in my said co
cent. of the amount due me for the work perform
the failure of Congress to appropriate funds neces
reasonable time, this provision is working me seri
appropriated and there has been paid me the a
year; but nothing has since been paid me on a
years 1878 and 1879 there has been retained, as
statement herewith inclosed, the sum of $4,530.
provision be made in the deficiency bill, now bei
honorable committee, to pay me the amount retai
For the truth of what is herein set forth, and
performed by me, I respectfully refer you to Mr. C
Very respectfully, &c.,

Hon. FRANK HISCOCK,
Chairman Appropriation Committee, House

ARCHITECT'S OFFIC

SIR: I have the honor to return herewith the
to the amount reserved from his vouchers for layi
Capitol grounds, which you referred to me.
Inasmuch as the statements it contains are co

mending that an appropriation be made "for the payment of all sums reserved from the vouchers of Geo. W. Cook, which may be unpaid prior to January 1, 1880, for artificial stone pavement laid by him on the Capitol grounds, under contract of September, 1875 ($4,530.57), four thousand five hundred and thirty dollars and fifty-seven cents, or so much thereof as may be necessary."

When these amounts shall have been paid the sums retained on vouchers paid since January 1, 1880, will be ample to secure the United States against loss, in case Mr. Cook should fail to make the necessary repairs to this pavement during the term specified in his contract.

Very respectfully, &c.,

EDWARD CLARK,
Architect United States Capitol.

Hon. FRANK HISCOCK,
Chairman Committee on Appropriations, House of Representatives.

TREASURY DEPARTMENT,
Washington, D. C., May 6, 1882.

SIR: I have the honor to transmit to you a special and a general letter from the First Comptroller of this Department, showing the need of legislation in a particular case, or of legislation that will provide for all like cases; and of saying that, in my judgment, the bill prepared by the First Comptroller and hereto transmitted would be provident and advisable legislation.

Very respectfully, &c.,

CHAS. J. FOLGER,
Secretary, &c.

The Hon. FRANK HISCOCK,
Chairman, &c.

TREASURY DEPARTMENT,
FIRST COMPTROLLER'S OFFICE,
Washington, D. C., May 5, 1882.

SIR: The books of this office show a balance of $644.38 due to William H. Greenleat on his regular public land account as late receiver of public moneys at Benson, Minn., and on his account as receiver of public moneys for the sale of Sioux Indian lands there is due from him the sum of $408.58. As the amount $644.38 due to him (as an overdeposit) has been covered into the Treasury and stands to the credit of moneys unappropriated, there can be no action taken by this office so as to transfer enough of the $644.38 due to him to close the amount $408.58 due from him on his Sioux Indian accounts, and at the same time pay to him the residue, $235.80, which would close his accounts on the books of the Treasury.

The Hon. H. B. Straight, of Minnesota, has asked that this statement might be made to you to the end that you might make a report to the appropriation committee of the House of Representatives of the status of the accounts of Mr. Greenleaf as given herein, with a view of having the said committee recommend the necessity of making the appropriation to pay and close the accounts of Mr. Greenleaf on the books of the Treasury.

In the annual report from this office for the fiscal year ending June 30, 1880, page 10, your attention is called to the subject of unpaid balances, and the recommendation made by my predecessor in his annual report for the previous year on this subject was renewed.

If the committee recommend the appropriation, it should be for the whole amount—$644.38—providing that $408.58 of the amount shall be covered to the credit of Mr. Greenleaf on his Sioux Indian account to close the same, and that the residue, $235.80, be paid to him by Treasury draft.

Very respectfully,

WM. LAWRENCE,
Comptroller.

Hon. CHARLES J. FOLGER,
Secretary of the Treasury.

TREASURY DEPARTMENT, FI

SIR: I have the honor to direct your attention t
gestion which were made to your predecessor in m
June 30, 1880:

"In the adjustment of the accounts of receivers
whose duty it is to collect the revenues of the go
with the amount of their collections and credited w
by them in the Treasury. In many cases officer
money than they have collected, thus creating a b

"The seventh clause of the ninth section of arti
the payment of any money from the Treasury exce
made by law. The above accounts come under
the money deposited and covered into the Treas
fund, and the accounts of such officers under appr
compensation and the expenses of their offices a
accounts for the collection of revenues. In the ab
of balances upon the latter class of accounts, the
year until quite a number now stand upon the b
be a great convenience if means for their payment

If Congress will authorize the settlement of th
involve the actual payment of money from the T
instance, a receiver has two accounts open; on on
on the other a balance of like amount is due from
may be closed by a transfer from one to the other,
system, that an appropriation shall be available
due to the officer. But this payment will be gene
payment in fact, as the amount will be carried to
due from the officer.

A draft of the bill to effect the desired object is
by you, I respectfully request that it be referred t
Appropriations in the House of Representatives, w
laid before the House.

Very respectfully,

NOTE.—The draft in question is section 3 of the

Hon. CHARLES J. FOLGER,
Secretary of the Treasury.

WAR DEPARTMENT, QUARTE

SIR: Referring to the request as contained in t
clerk of your committee, dated March 17, 1882, I h
ing statement pertaining to the appropriation for
The appropriation for that fiscal year (1880–1881)
Remitted to disbursing officers to June 30, 1881 ..

Claims paid through the Treasury .....

Credit deposits to June 30, 1881 .....

Balance of appropriation on hand June 30, 1881..
Credit deposits received since June 30, 1881 .....

Available since June 30, 1881.....

Accounts payable from appropriation and receive
ter-General's Office since June 30, 1881 .....
Paid since that date.....

Deficiency.....

This amount is the known deficiency at this dat

From information received from officers of the Military Division of Missouri, there is a doubt if all outstanding indebtedness or unpaid vouchers are yet reported here.

In order to provide for payment of all such accounts the Quartermaster-General stated the deficiency in round numbers at $400,000, and that amount will doubtless be required.

Inclosed I transmit a statement which seems to account for the unusual and necessary expenditures during the fiscal year 1880–'81 in general terms.

The transportation of supplies of all kinds to the new posts from lines of railway by wagons to the posts proved very expensive.

The following is a list of land-grant railroads and the accounts of their earnings in the fiscal year 1880–'81 so far as filed in this office. Many of these accounts are not yet audited, and it is probable that many have not yet reached this office for examination:

Atchison, Topeka and Santa Fé	$131,251 49
Chicago and Northwestern	6,810 72
Chicago, Burlington and Quincy	1,163 95
Chicago, Milwaukee and Saint Paul	3,493 77
Chicago, Rock Island and Pacific	3,635 26
Chicago, Saint Paul, Minneapolis and Omaha	1,548 04
Cincinnati, Saint Louis and Chicago	09
Hannibal and Saint Joseph	101 29
Illinois Central	5,982 13
Kansas City, Lawrence and Southern	20 82
Mobile and Ohio	633 87
Morgan's Louisiana and Texas	3 58
Missouri Pacific	1,485 97
Northern Pacific	11,237 18
Saint Louis and San Francisco	4 77
Texas Pacific	933 38
Wisconsin Central	6 08
Burlington and Missouri	930 23
Saint Paul, Minneapolis and Omaha	1,957 75
Saint Paul and Sioux City	382 21
Louisville and Nashville and connections	1,567 52
Total	173,150 10

Appropriations were made by acts of Congress for payment of like accounts for other years, March 3, 1879, February 24 and March 3, 1881, but none for the fiscal year 1880–'81, the period for which this deficiency estimate of $125,000 is made.

Explanation in full as to payments for this service generally will be found on pages 104, 105, 106, and 107, Annual Report of the Quartermaster-General, 1881, to the honorable the Secretary of War, and also in General Orders No. 69, Adjutant-General's Office, 1880 (copy inclosed).

Very respectfully, your obedient servant,

RUFUS INGALLS,
Quartermaster-General, Breret Major-General, U. S. Army.

The Hon. the CHAIRMAN
OF THE COMMITTEE ON APPROPRIATIONS,
House of Representatives.

Causes of increase in transportation service during the fiscal year ending June 30, 1881.

(1.) The permanent establishment and maintenance of camp on White River, Colorado, 144 miles by wagon-road from Rawlins, Union Pacific Railroad; which point is 969 miles by rail from Fort Leavenworth, the headquarters of the department, and chief base of supply.

The camp was garrisoned during the year with nine companies of cavalry and infantry. One item of expense was the transportation in the fall and winter of 1880 of lumber and material for building quarters and sheltering the troops during the winter, costing very nearly $100,000.

Camp on Snake River, 64 miles from Rawlins, garrisoned with two companies of infantry, also occasioned considerable additional expense for transportation during the year.

(2.) The establishment of new post on Uncompahgre River (175 miles by wagon-road from Alamosa, Denver and Rio Grande Railway, and 945 miles by rail and wagon from Fort Leavenworth), to which post fifteen companies of cavalry and infantry were

sent and where they have been maintained at extr
transportation; both wagon and rail transportation
double the average cost in other sections of the coun
(3.) The reoccupation of old Fort Cummings, N.
entailed additional transportation expenses.
(4.) The opening of the transcontinental railroad
Deming) and Arizona has diverted traffic to Arizo
around via Lathrop and Sacramento. Hence shipm
were, as a rule, sent through Kansas, Colorado, and N
of the railroads located in Department of the Missou
(5.) The Nineteenth and Twentieth Regiments of i
ing the year. The Nineteenth was sent from the p
the Missouri (Leavenworth, Hays, Dodge, and Gibs
Infantry of the posts it occupied in Department of T
Twentieth was moved to Department of the Missour
cupied by the Nineteenth. This movement of nearly
sary freight to accompany them, cost about $50,000, a
in accounts pertaining to the Department of the Mis
The transportation expenses above referred to ma
and additional to what were usually incurred in form
To the above items may be added the cost of transp
tion at the following-named stations:
New post at Fort Lewis, Colo.
Temporary post at Gunnison River, Colorado.
Completion of Fort Missoula, Mont.
New post at Fort Maginnis, Mont.
New post at Fort Assinaboine, Mont.

QUARTE
Wa

SIR: Referring to my report upon the deficiency
of transportation of the Army, dated March 21, 18
herewith copy of a dispatch received this day fro
ment of Missouri, Fort Leavenworth, Kansas, consi
with that report, is requested; to wit:

"FORT LEAVENW

"QUARTERMASTER-GENERAL, *Washington, D. C.:*

"Depot quartermaster here reports railway accou
ing to last fiscal year, received this month, made up
that accounts to the amount of $10,000 more will pro
to this have been forwarded. One contractor for w
ports $335 due him on bill of lading not yet presente

From which it will appear that accounts to the a
settled under the appropriation for deficiency asked
tion to those reported.

Very respectfully, your obedient servant,

Quartermaster-General, Brevet Ma

Hon. CHAIRMAN OF THE COMMITTEE ON APPROPR
Hous

DEPA

SIR: I have the honor to invite your attention to t
the Commissioner of Indian Affairs, presenting an an
ment to afford relief to the Kaskaskia, Peoria, Wea,
at the Quapaw Agency, Indian Territory. The ame
appropriation, but only authorizes the application o
relief of a present and pressing necessity, their crop

A copy of the petition of the Indians is herewith inclosed, showing the necessities of the case.

A similar communication has been this day addressed to the chairman of the Committee on Appropriations of the Senate.

Very respectfully,

S. J. KIRKWOOD,
Secretary.

Hon. FRANK HISCOCK,
Chairman Committee on Appropriations, House of Representatives.

SIR: The petition of subscribers, members of the Kaskaskia, Wea, Piankeshaw, and Peoria tribe of Indians of the Quapaw Agency, Indian Territory, respectfully showeth:

That they are in a destitute condition, owing to the total failure, the past year, of all kinds of crops, and that unless they have relief soon many will suffer great hardships personally and lose the greater part of their live stock; that they have a large surplus of funds in the United States Treasury, which, if paid to them, will afford relief from destitution and want, and prevent many from becoming a public charge; that they do not ask the general government to assist them directly, but through Congress by an appropriation of moneys from their own funds.

They most earnestly pray that the honorable Commissioner cause a bill to be prepared and presented to Congress, at as early a day as possible, for the appropriation of $15,000 of their surplus fund to relieve the pressing wants of the people.

That at no time since their removal to the Indian Territory have they been in a more impoverished condition, and that if their prayers are answered they will be able to live comfortably and feed their stock, which otherwise must be sold or perish.

And your petitioners will ever pray, &c.

JAMES his + mark. CHARLEY, SR.
And 56 other signatures.

Hon. H. PRICE,
Commissioner of Indian Affairs, Washington, D. C.

DEPARTMENT OF JUSTICE,
Washington, March 3, 1882.

SIR: The attention of the Committee on Appropriations of the House of Representatives is respectfully directed to the necessity of providing for the payment of the deficiencies existing in former appropriations for the expenses of the courts of the United States, and to the necessary legislation for the adjustment of other claims, herein enumerated, if their payment meets with the approval of Congress.

Herewith is inclosed a copy of a letter from the First Comptroller of the Treasury, dated January 16, 1882, to the Secretary of the Treasury, in which he states that there will be needed to supply deficiencies in appropriations for expenses of United States courts, as follows, viz:

For the year ending June 30, 1880:	
Fees of district attorneys	$25,000
Fees of clerks	25,000
	50,000
For the year ending June 30, 1881:	
Fees of clerks	$25,000
Fees United States commissioners	16,000
	41,000
For the year ending June 30, 1882:	
Fees and expenses of marshals	$50,000
Fees of district attorneys	25,000
Fees of clerks	55,000
Fees United States commissioners	55,000
	185,000

I would also estimate a deficiency for the year ending June 30, 1881, in expenses of Territorial courts in Utah, $6,000; principally arising from the expenses of the penitentiary for April, May, and June, 1881.

For the year ending June 30, 1882:

Fees of jurors	$20,000
Fees of witnesses	25,000
	45,000

The unusual demand made upon the fees of jurors and witnesses by the expenses of the Guiteau trial and the "Star Route" cases, necessarily protracted, requires larger sums than those which ordinarily suffice for the service of a year.

Your attention is directed to the fact that Congress has made no provision for the payment of special deputies at the Congressional elections of 1879, 1880, and 1881. The services were rendered by these officers under the legislation which created them, and having discharged their duties, they naturally expect that Congress will provide for their payment. Permit me to refer you to the annual report of this department for the year 1881, pages 15, 16, as bearing upon this matter, and expressive of the views of my predecessor, and to the copies inclosed of letters from the department, dated April 30, 1879, March 8, 1879, June 6, 1879, December 15, 1880, to the Appropriation Committees of the Senate and House of Representatives.

According to the information now before me, it is believed that for this purpose there will be needed for the year 1879, for an election in the State of California, a sum not exceeding $7,600; for the elections in October and November, 1880, $100,000; and for the elections in 1881 in New York City a probable amount of $5,000.

I transmit herewith a copy of a letter from United States Senator Benjamin Harrison, dated February 20, 1882, respecting the legislation necessary to pay the judgment and costs, amounting to $802.16, in the case of L. P. Mulligan *v.* A. P. Hovey *et als.*, in the United States circuit court for Indiana in July, 1871, if the payment meets with your approval, the same being recommended to your favorable consideration.

Very respectfully,

BENJAMIN HARRIS BREWSTER,
Attorney-General.

Hon. FRANK HISCOCK,
Chairman Committee on Appropriations, House of Representatives.

[Telegram.]

NEW YORK, *March* 3.

SAMUEL MULLIKEN,
Department of Justice, Washington, D. C.:

I estimate for special deputy marshals of election in 1880, $45,000; for election in 1881, $5,000—total, $50,000.

HENRY E. KNOX,
United States Marshal.

UNITED STATES SENATE CHAMBER,
Washington, February 20, 1882.

SIR: During the war (in 1864, I think) some arrests were made in Indiana of civilians who were charged with disloyal acts. Among these was one L. P. Milligan. He, with others, was tried before a military commission in Indianapolis, found guilty and sentenced to be executed. The sentence was commuted to imprisonment, and upon a decision of the Supreme Court Milligan was finally discharged, the Court holding that the military court had no jurisdiction. Milligan then sued the officers composing the court for false imprisonment, &c. I was employed by the President (General Grant) to defend. The trial was a long one, and resulted in a verdict of $5 for the plaintiff. This verdict carried costs against the officers, the aggregate of which was $802.16, as per statement accompanying. Execution has been in the hands of an elisor ever since, and remains unexecuted. As these officers acted under military orders, as members of the court, I think they should not be subjected to the costs now in judgment against them. I would therefore respectfully request you to recommend to Congress an appropriation to pay the judgment and costs.

Very respectfully, yours,

BENJ. HARRISON.

Hon. B. H. BREWSTER,
Attorney-General, United States.

SHERIFF'S OFFICE, MARION COUNTY, INDIANA,
Indianapolis, February 19, 1881.

Statement of judgment, interest, and costs due on execution in the case of Lambdin P. Milligan vs. *Alvin P. Hovey*, et al:

No. 1472, United States circuit court, district of Indiana.

Judgment July 15, 1871	$5 00	
Interest to July 15, 1881	3 00	
		$8 00
Costs taxed on execution in the hands of elisor	773 50	
Accrued costs due elisor	20 66	
		794 16
Total judgment, interest, and costs		802 16

HENRY C. ADAMS,
Elisor.

TREASURY DEPARTMENT, FIRST COMPTROLLER'S OFFICE,
Washington, January 16, 1882.

SIR: I have the honor to transmit herewith, for your information, a copy of a letter written by me to the Secretary of the Treasury on the 14th instant, submitting estimates for appropriations to supply deficiencies for expenses of United States courts.

Very respectfully,

WM. LAWRENCE,
Comptroller.

Hon. BENJAMIN HARRIS BREWSTER,
Attorney-General.

TREASURY DEPARTMENT, FIRST COMPTROLLER'S OFFICE,
Washington, D. C., January 14, 1882.

SIR: I have the honor to request the return of my letter of yesterday, and, in lieu thereof, to submit the following estimates of sums needed to supply deficiencies of appropriations for expenses of United States courts, viz:

Year ended June 30, 1880:	
Fees of district attorneys	$25,000 00
Fees of clerks	25,000 00
Year ended June 30, 1881:	
Fees of clerks	25,000 00
Fees of commissioners	16,000 00
Year ended June 30, 1882:	
Fees and expenses of marshals	50,000 00
Fees of district attorneys	25,000 00
Fees of clerks	55,000 00
Fees of commissioners	55,000 00

In explanation of the above I have to say that there are now in this office, awaiting payment, accounts for the following amounts: Fees of district attorneys, 1880, $19,703.38; fees of clerks, 1880, $19,776.19; fees of clerks, 1881, $20,159.35, and fees of commissioners, 1881, $12,615.29. It is presumed that the difference between these amounts and the above estimates may be required to pay accounts for the years named, which are coming in almost daily.

Appropriations made for fees of marshals, clerks, attorneys and commissioners for 1882, are less by the following sums than the appropriations for 1881: Marshals $50,000; clerks, $30,000; attorneys, $45,000; commissioners, $40,000. The sum provided for marshals for 1881, was no more than sufficient. For fees of clerks and commissioners there were large deficiencies.

To supply deficiencies of appropriation for expenses of Territorial courts in Utah, the following sums are required:

Year ended June 30, 1880	$2,877 76
Year ended June 30, 1881	4,732 22

Very respectfully,

WM. LAWRENCE,
Comptroller.

Hon. CHARLES J. FOLGER,
Secretary of the Treasury,

It will be observed, by referring to former appropriations for this department, that this language is substantially that adopted in previous appropriations for recent years.

Very respectfully, your obedient servant,

CHAS. DEVENS,
Attorney-General.

Hon. J. D. C. ATKINS,
Chairman Committee on Appropriations, House of Representatives.

DEPARTMENT OF JUSTICE,
Washington, April 30, 1879.

SIR: I submit herewith a detailed statement of the number of deputy United States marshals employed in each city, town, or place, appointed under the provisions of the Federal statutes, by the marshals of the United States, to attend at elections in the several States during the past year, as called for by resolution of your special committee communicated to me in a letter dated March 4, 1879.

It will be seen that the whole number of deputies appointed who served were 5,494. Of this number 5,001 were appointed under the provisions of the law relating exclusively to elections, and 493 were appointed in certain districts by virtue of the powers conferred upon marshals by section 780 Revised Statutes, to appoint deputies with general powers to preserve order and keep the peace.

Those appointed under the general authority of the marshals were not entitled to, and, so far as I am informed, have not received the five dollars per day provided under the election laws for special deputies.

I ought also to add that some of the special deputies appointed under the election laws have not received the per diem provided, it appearing that the places for which they were appointed did not contain a sufficient number of inhabitants to justify such payment. These instances have been noted on the table.

This tabulated exhibit has been made up from returns received from the marshals, which are also herewith furnished, and which contain the names of all deputy marshals employed as above stated.

The marshals of the several judicial districts were instructed to furnish these returns, this department not containing at the time the information called for by your committee, as I explained in my letter of the 8th ultimo.

Accompanying the table and returns is a copy of my letter of instructions sent to every marshal.

Very respectfully,

CHAS. DEVENS,
Attorney-General.

Hon. WILLIAM A. WALLACE,
Chairman, &c., United States Senate.

Table showing number of deputy United States marshals appointed on the occasion of the Congressional elections, November 5, 1878, *and the places where employed.*

[Appointed under the election laws, unless otherwise designated.]

District.	City or town.	No. of deputies in cities and towns.	Total number of deputies in district.
Alabama:			
Northern district			None.
Middle district	Robinson's X-Roads	2	
(Appointed under the general authority of the United States marshal.)	Kendall's Store	2	
	McGehee's Switch	3	
	Old Elam	5	
	Dooley's	3	
	Tucker's Store	3	
			18
Southern district	Montgomery	83	
(Appointed under general authority of marshal.)			
(Appointed under section 2021)	Mobile	9	
			92

Table showing number of deputy United States marshals, &c.—Con inued.

District.	City or town.	No. of deputies in cities and towns.	Total number of deputies in district.
kansas—Continued.			
Eastern district	Union	1	
	Village	1	
	Jefferson	1	
	Vongine	2	
	Bargne	1	
	Bolivar	1	
	Bogg	1	
	Plumb Bayou	1	
	Dunnington	1	
	Dudley Lake	1	
	Richland	1	
	Melton	1	
	Whiteville	1	
	Taladega	1	
	Spring	1	
	Washington	1	
	Victoria	1	
	Pastoria	1	
	Parker	1	
	Alabama	1	
	Missouri (Nevada County)	1	
	Boughton	1	
	Emett	1	
	Union	1	
	Fourche La Lapou	2	
	Perry	1	
	Union	1	
	Petit Jean	1	
	Casey	1	
	New Tennessee	1	
	Alpine	1	
	McCool	1	
	Manelli	1	
	Thompson	1	
	Missouri (Pike County)	1	
	Wolf Creek	1	
	Clark	1	
	White	1	
	Muddy Fork	1	
	Bremer	1	
	Little Rock	1	
	Ashley	1	
	Bodgett	1	
	Bayo Meto	1	
	Campbell	1	
	Eagle	1	
	Fourche	1	
	Gray	1	
	Owen	1	
	Young	1	
	Ellis	1	
	Eastman	1	
	Mineral	1	
	Pyeatte	1	
	Union (Pulaski County)	1	
	Big Rock	1	
	Roanoke	1	
	Spring River	1	
	Jane's Creek	1	
	Union (Randolph County)	1	
	Eleven Points	1	
	Davidson	1	
	Columbia	1	
	Little Black	1	
	Currant River	1	
	Willey	1	
	Dunn	1	
			175
Western Distict			None.
lifornia			None.
nnecticut			None.
lorado			None
laware			None.

Table showing number of deputy United States marshals, &c.—Continued.

District.	City or town.	No. of deputies in cities and towns.	Total number of deputies in district.
Florida:			
Northern district (appointed under the general authority of the marshal, and not paid by the United States).	Duval County	60	
	Alachua County	10	
	Marion County	13	
	Columbia County	9	
	Hamilton County	11	
	Madison County	44	
	Leon County	19	
	Wakulla County	1	
	Jackson County	13	
	Escambia County	9	
			189
Southern district			None.
Georgia:			
Northern district (appointed under the general authority of the marshal, and not paid by the United States).	Rome	2	
			2
Southern district	Savannah	24	
Illinois:			
Northern district	Chicago	215	
			215
Southern district			None.
Indiana			None.
Iowa			None.
Kansas			None.
Kentucky			None.
Louisiana	New Orleans	241	
			241
Maine			None.
Maryland	Baltimore	698	
			698
Massachusetts	Boston	211	
	Lowell	13	
			224
Michigan:			
Eastern district	Detroit	10	
			10
Western district			None.
Minnesota			None.
Mississippi:			
Northern district			None.
Southern district			None.
Missouri:			
Eastern district			None.
Western district			None.
Nebraska			None.
Nevada (appointed under general authority of marshal).	Virginia City	9	
	Carson	4	
	Reno	1	
	Winnemucca	1	
	Elko	1	
	Austin	1	
	Pioche	1	
	Eureka	1	
	Genoa	1	
			20
New Hampshire			None.
New Jersey	Jersey City	126	
	Camden	47	
	Hoboken	19	
			192
New York:			
Northern district	Albany	71	
	Auburn	14	
	Buffalo	109	
	Elmira	14	
	Oswego	16	
	Rochester	54	
	Syracuse	30	
	Utica	24	
	Troy	26	
	Watervliet	18	
			376

Table showing number of deputy United States marshals, &c.—Continued.

District.	City or town.	No. of deputies in cities and towns.	Total number of deputies in district.
New York—Continued.			
Southern district	New York City	1,260	
	Poughkeepsie	13	
			1,273
Eastern district	Brooklyn	545	
	Long Island City	16	
			561
North Carolina:			
Eastern district			None.
Western district			None.
Oregon			None.
Ohio:			
Northern district			None.
Southern district	Cincinnati	*74	
(Of these, eight refused compensation.)		†3	
			71
Pennsylvania:			
Eastern district	Philadelphia	773	773
Western district	Scranton	19	19
Rhode Island			None.
South Carolina	Charleston	46	46
Tennessee:			
Eastern district			None.
Middle district			None.
Western district			None.
Texas:			
Eastern district	Galveston	63	
(No per diems were charged by or paid to deputies at these places.)	Houston	7	
	Halthorn	1	
	Willis	1	
	Montgomery	1	
			73
Western district	Marshal	2	
(In this district only general deputies were employed; none were appointed under the election laws.)	Elysian Fields	3	
	Calvert	1	
			6
Vermont			None.
Virginia:			
Eastern district	Richmond	23	
	Petersburg	55	
	Norfolk	17	
			95
Western district			None.
West Virginia			None.
Wisconsin:			
Eastern district			None.
Western district			None.
TERRITORY:			
Arizona			None.
Dakota			None.
Idaho			Not heard from.
Montana			Not heard from.
New Mexico			
No per diems were charged by or paid to deputies at these places.	Santa Fé	5	
	Belen	1	
	Los Lunas	2	
	Sabinal	1	
	Peralta	1	
			10
Utah			None.
Washington			None.
Wyoming			None.

*Appointed. †Excused.

SUMMARY.

Total number of special deputy United States marshals	5,001
Total number of deputy United States marshals, appointed under general authority of the United states marshals	493
Grand total	5,494

DEPARTMENT OF JUSTICE,
Washington, April 18, 1882.

SIR: I herewith inclose copy of a letter from the First Comptroller of the Treasury, dated the 17th instant, in which he states that there will be a probable deficiency for fees and expenses of marshals for the year ended June 30, 1880, the sum of $30,000. In compliance with his request, I respectfully make application for an appropriation to meet the deficiency named.

Very respectfully,

BREWSTER,
Attorney-General.

Hon. FRANK HISCOCK,
Chairman Committee on Appropriations, House of Representatives.

NAVY DEPARTMENT,
Washington, April 26, 1882.

SIR: After taking occasion to revise the estimates of appropriations which will be required by the Navy Department for the balance of this fiscal year, and which should be included in a deficiency bill, I have the honor to submit herewith a detailed statement of the same, and to respectfully request favorable consideration thereof.

Very respectfully,

WM. E. CHANDLER.
Secretary of the Navy.

Hon. FRANK HISCOCK,
Chairman Committee on Appropriations, House of Representatives.

DEFICIENCIES.

Estimates of appropriations required by the Navy Department for fiscal year ending June 30, 1882.

		Regular, 1882.
Contingent Navy (see Memorandum No. 1)	$15,630 00	$100,000
Contingent Equipment and Recruiting (Memorandum No. 2)	12,000 00	5,000
Contingent Navigation (Memorandum No. 3)	2,000 00	1,500
Contingent Ordnance (Memorandum No. 4)	1,500 00	3,500
Completing measurement of velocity of light (Memorandum No 5)	2,000 00	
Pay Marine Corps (Memorandum No. 6)	104 16	
Clothing Marine Corps (Memorandum No. 7)	19,681 00	
Contingent Marine Corps (Memorandum No. 8)	2,500 00	
Transportation and Recruiting Marine Corps (Memorandum No. 9)	3,000 00	
Forage Marine Corps (Memorandum No. 10)	5,008 03	
Construction and Repair (Memorandum No. 11)	150,000 00	
Steam Machinery (Memorandum No. 12)	215,442 91	
	428,866 10	

No. 1.

CONTINGENT NAVY.

NAVY DEPARTMENT,
Washington, February 13, 1882.

SIR: In summing up the expenditures under Contingent Navy, for the current fiscal year, I find that extraordinary liabilities have arisen, largely due to unexpected expenses abroad, which render a farther appropriation absolutely necessary to meet the demands of the remainder of this fiscal year.

The appropriation for the year was $100,000, and there has been expended up to this time $72,734.39, leaving a balance on hand at date of $27,265.61, which will not meet the wants of this appropriation for the rest of the year. By a more perfect system of settling the accounts of disbursing officers than has before been in operation,

the expenditures made abroad are charged up currently.
unusually large, and have been paid promptly without
penses. The floating observatory at Japan is an inst
month. Nearly every vessel afloat has contingent ex
from the appropriation by a monthly cash settlement, w
done. Then again, the "expenses of courts-martial an
ness fees, stationery, traveling expenses, and all other
than in previous years. It must be apparent from this
the department will be delayed and crippled if limite
contingent expenses for the balance of this fiscal year.

I have the honor, therefore, to ask for an additional
immediately available.

Very respectfully, your obedient servant,

Hon. FRANK HISCOCK,
Chairman Committee on Appropriations, House of Re

CONTINGENT NAVY.

For legal expenses incurred by Rear-Admiral John L.
of Maurice against him, for alleged damages caused by
ral Worden in the discharge of his duty while superinte
in 1872, being on account of the service of the fiscal ye

No. 2.

CONTINGENT EQUIPMENT AND RE

This appropriation is completely exhausted, and $12,0
ing expenses during the remainder of the current fiscal
The item of transportation alone amounts to more tha
the present fiscal year.

No. 3.

MEMORANDUM CONTINGENT NAV

Deficiency under "Contingent Navigation 1882," on Fe
sive of expenditures by vessels abroad as far as reporte
retary February 8, 1882).....
Expenditures reported from vessels abroad since Februa
Bills approved under "Navigation 1882" for freight, &
ble to "Contingent Navigation 1882," since February

Total deficiency April 20, 1882 .....

The freight of 35 boxes of astronomical instruments f
New York is to be paid, besides the necessary current e
June 30, 1882.

No. 4.

CONTINGENT ORDNANCE.

On January 11, 1882, the Bureau of Ordnance request
under above head to meet demands for freight, &c.
Contingent Ordnance is now entirely exhausted, and

No. 5.

COMPLETING MEASUREMENT OF VELOCITY OF LIGHT.

NAUTICAL ALMANAC OFFICE,
BUREAU OF NAVIGATION, NAVY DEPARTMENT,
Washington, D. C., January 24, 1882.

SIR: I have the honor to ask the attention of the department to the need of a small appropriation for completing the measurement of the velocity of light, which has been in progress during the last two summers. These measurements were undertaken in pursuance of a recommendation of the National Academy of Sciences, for the purpose of obtaining a more accurate value of the solar parallax than could be derived in other ways, as is more fully explained in a letter addressed by me to the department, a copy of which is inclosed.

In this letter the cost of the experiments is estimated at $7,000, but only $5,000 was required at that time, and only that amount has been appropriated. Indeed the results as now obtained would be satisfactory but for certain discordances between them when obtained under different conditions. These results are in kilometers, per second. From Fort Meyer—

	Kilometers.
To Observatory, in 1880	299,680
To Observatory, in 1881	299,720
To Washington Monument, 1881	299,750

Alterations in the apparatus, as well as farther experiments, are necessary in order to reconcile these discordances, find the true velocity, and reduce the results to a vacuum.

It is also desired to publish drawings of the apparatus.

For these purposes I respectfully request that the appropriation of the remainder of the amount originally estimated, $2,000, be recommended to Congress, and that the item be inserted in the deficiency bill, in order that it may be available as soon as practicable.

Very respecfully, your obedient servant,

SIMON NEWCOMB,
Superintendent Nautical Almanac.

Hon. W. H. HUNT,
Secretary of the Navy, Navy Department.

No. 6.

PAY MARINE CORPS.

The sum of $104.16 is required to reimburse Maj. Green Clay Goodloe, paymaster Marine Corps, for amount paid under proper authority to Mr. Alexander De Souza, clerk to Capt. W. A. T. Maddox; the same was disallowed by the accounting officers of the Treasury and checked against him, for the reason that there was no money available for the purpose.

No. 7.

CLOTHING MARINE CORPS.

To pay for the one-third additional quantity of the material and of undress caps, authorized by contract, and made necessary by the requirements of the service, viz: 2,000 yards sky-blue kersey, at $2.48 per yard, as per contract; 500 yards dark-blue cloth, at $3.85 per yard, as per contract; 3,000 yards dark-blue flannel, at $1.48 per yard, as per contract; 400 undress caps, at 89 cents per cap. To pay for the making of the material into garments, being for the service of the fiscal year 1882. $19,681 00

"The sums required for clothing are made necessary by the increased cost of material under contracts, present year, over the contract prices of last year, upon which the estimates were based, by the increased cost of manufacturing the material into garments, and by the introduction, this year, of the new clothing bag in place of the old knapsack, a change which was made after the appropriation for clothing present fiscal year had passed."

No. 8.

CONTINGENT MARINE Co

To meet expenses at the several marine stations, a
quartermaster's office, for freight, ferriage, toll,
penses of marines, stationery, telegraphing, apprel
repair of gas and water fixtures, &c., being a def
year 1882.....

"The increase asked for contingencies is caused by
stations, and at the assistant-quartermaster's offices f
under that head, and the slight increase in the cost
asked for contingencies in the estimates submitted fo
duced $5,184.00.

No. 9.

TRANSPORTATION AND RECRUITING

To meet expenses for transportation of troops, an l
being a deficiency for the fiscal year 1882.....

"An additional sum for transportation and recruiti
an unexpected demand having been made upon that a
tion of troops across the isthmus of Panama, the open
and a general increase in the transfer of troops."

No. 10.

FORAGE MARINE CORI

To pay accounts for forage in kind for the authoriz
horses, being for the service of the fiscal year 1882.
To pay accounts for forage in kind for the authoriz
horses from March 1, to June 30, 1881, being a de
year 1881.....

"The amount required for forage was and is cause
Quartermaster's Department to supply forage in kind
der the act of February 24, 1881 (21 Stats., p. 347), re
east of the Mississippi River."

No. 11.

CONSTRUCTION AND REP

The act approved February 23, 1881, making appro
$150,000 immediately available for completing the Br
virtually reduced the regular appropriation for thi
$1,350,000.

The increase in the number of ships in commission,
eign service, have so far exhausted the funds to the
pair" that without an *early* appropriation by Cong
suspend nearly all construction work in our several
June next. Under these circumstances, I respectfull
Congress be asked to appropriate $150,000, available
ent fiscal year.

No. 12.

NAVY DEPARTMENT, BUREAU

With the unexpended balance of appropriation f
balance of the fiscal year, completing the Hartford

Island, and make some progress with the Juniata and Trenton at New York; but to do this our force will have to remain reduced as now at Portsmouth, League Island, Washington, and Pensacola, where we have practically suspended all operations; also no purchases of supplies can be afforded.

The following work is in hand at the navy-yards named, but suspended for want of funds, and the amounts set against each should be appropriated at once to prosecute the work during the fiscal year, viz:

Omaha, Portsmouth, engines, &c	$25,000
Plymouth, Portsmouth, engines, &c	5,000
Juniata, New York, engines, &c	12,000
Trenton, New York, engines, &c	20,000
Ossipee, League Island, engines, &c	12,000
Ossipee, Washington, boilers	10,000
Ticonderoga, Washington, boilers	10,000
Steam launches, Washington, engines, &c	3,000
Fortune, Norfolk, engines, &c	5,000
Pinta, Norfolk, engines, &c	5,000
Albert, Mare Island, new boilers	15,000
Mohican, Mare Island, continue work	10,000
Monongahela, Mare Island, new boilers	15,000
Tuscarora, Mare Island, new boilers	15,000
For purchase of stores, supplies, &c., for above work and miscellaneous, including foreign expenditures	50,000
Total	212,000

Should this amount be appropriated the necessity would not exist for making immediately available the sum of $300,000 of the amount estimated for fiscal year 1882-'83, as requested in bureau's letter dated April 1 ultimo.

There should also be appropriated the sum of $442.91 to pay general average claim of O. M. Vesper & Co., on schooner Ada J. Simonton, referred to in bureau letters dated February 25 and December 4, 1879.

Also, the sum of $3,000 additional for testing machine, as per bureau's letter of January 4, 1882.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF CUSTOMS,
Washington City, D. C., April 17, 1882.

MY DEAR SIR: In compliance with your verbal request of Saturday morning I inclose a copy of my letter to the Hon. Secretary of the Treasury, and of the proposed amendments to the then existing law in relation to the compensation of inspectors of customs.

With great respect,

H. C. JOHNSON.

Hon. EDWIN WILLITS,
House of Representatives, Washington, D. C.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF CUSTOMS,
Washington City, D. C., January 25, 1878.

SIR: I have the honor to inclose herewith the form of an enactment designed to make the law contained in sections 2733 and 2737, Revised Statutes, relating to the salary of inspectors of customs, the same as it was prior to the passage of the Revised Statutes, and of an amendment to section 3618 relating to the sale of old material.

Prior to the passage of the Revised Statutes the law allowed the Secretary of the Treasury to fix the compensation of inspectors at such sum as he saw fit, not however to exceed the maximum per diem of $3, with the power of increasing the maximum to $4.

Under this law inspectors were, in some cases, paid as little as fifty cents a day, with perfect satisfaction both to the government and the party employed.

In section 2733, Revised Statutes, the discretionary power of the Secretary of the Treasury in relation to the compensation of inspectors is omitted, and a fixed sum, viz, $3, is named for every day's work by an inspector.

In order to prevent an increase of the expenses of collecting the revenue from cus-

Hon. JOHN SHERMAN,
Secretary of the Treasury.

[Substitute for sections 2733 and 2737, R. S.]

Each inspector shall receive for every day he shall be actually employed in ai the customs such sum as the Secretary of the Treasury may direct, not to exceed tl dollars, and the Secretary of the Treasury may increase the compensation of such spectors as he may think advisable to a sum not exceeding four dollars for each actually employed.

Section 2733 and 2737, Revised Statutes of the United States, are hereby repeale

[Construction of section 3618.]

Section 3618, Revised Statutes of the United States, shall be construed to allow payment of all proper claims for the advertisement, storage, handling, and sale of material or other public property out of the proceeds derived from such sale be they are deposited and covered into the Treasury.

[Compensation of inspectors of the customs.]

DEPARTMENT OF JUSTICE,
OFFICE OF THE SOLICITOR OF THE TREASURY,
Washington, D. C., October 9, 1876

SIR: I have the honor to report that I have carefully considered the questions volved in the claim of James D. Green for alleged arrears due him as compensati for his services as inspector of the customs at Punta Rosa, Fla., from August 18, 18 to February 1, 1875, submitted to me in your communication of the 5th instant, a arrived at the following conclusions. They may be arranged in answer to the f lowing questions:

1. What sum per diem is an inspector of customs entitled to receive?
2. For what time during any given term of his holding that office is he entitled be paid?
3. Is he estopped by his own receipt for a less sum, as full compensation for his ser ices, from claiming the compensation established by law?

1. The act of March 2, 1799, fixed the per diem compensation of inspectors of tl customs at a sum not exceeding $2 (1 Statutes at Large, p. 701). The act of April 2 1816, added 50 per centum to this compensation. The statutes prior to December 1873 left a discretion with the Secretary of the Treasury to fix the compensation

back. Suits are pending, directed by this office, to recover back salaries claimed to have been paid by Treasury officers without warrant of law. If settlements and contracts ratified by the accounting officers of the Treasury cannot override the requirements of the statutes when more than the legal salary is paid, they cannot equitably defeat the beneficiary provisions of statutes that increase the compensation of public officers. From and after the Revised Statutes went into effect, and while he continued an inspector of customs, the rate of compensation to which James D. Green was entitled was $3 a day.

2. For what time shall an inspector of customs be paid at the rate of $3 per day?

The statute says for "the time he is actually employed." This language is not new in the Revised Statutes.

It has been the limit of the service of an inspector ever since the national customs service was established. An inspector is not now, and never has been, entitled to compensation except for the time he has been actually employed. What is to be considered actual employment? Much of the service of a customs officer is vigilant and preventative. He is at hand not so much to do official acts as to prevent other persons from committing breaches of the law; to observe and report any transactions whereby the revenue might be defrauded. To say that no customs officer was actually *employed*, excepting for the time he was actually hauling smuggled goods, or boarding merchant vessels, or receiving cash for duties, or issuing or recording custom-house papers, would be to overlook the value and necessity of the official services of the great body of customs officers. The importations of foreign merchandise are made principally into five of the great ports, New York, Boston, Baltimore, New Orleans, and San Francisco, and only the revenue officers of *those ports* are constantly and actively employed in collecting duties. But it would never do to abolish all the other collection districts of the extensive coasts and frontiers, and dismiss the revenue officers employed there, because it is by their vigilance alone that the foreign trade is maintained in its legitimate channels, and made to contribute its just equivalent of revenue. To discriminate against those revenue officers who were not actually employed in collecting revenue or doing some active customs service would be like paying only those night watchmen who should catch lawless men in the act of burglary or setting incendiary fires, and refusing pay to all those whose vigilance had prevented these crimes. Certainly in either case prevention is better than cure, and ought to be as well compensated.

An inspector of customs is to be considered as *actually employed* when he is in his district in a position to perform promptly and efficiently any and all of the duties pertaining to his office. Such official employment is not incompatible with other employments of a public and private character. Thus, an inspector may be at the same time a postmaster and keep an office, a tradesman and keep a store, or a mechanic and keep a shop, and if he is all the time in a position to perform promptly and efficiently the duties of an inspector, he is to be considered as actually employed as an inspector. The fact that he has a public place of business, unless the same is unfavorably situated, is an advantage both to the government and to the public having to deal with him in his official capacity. Of course there are employments, such as that of a mariner or traveling agent, which would take him from his district, or of a millman, machinist, or day laborer, when his time would not be at his own disposal, which would be of themselves inconsistent with his being employed all the time as an inspector. In the absence of proof that a person holding the office of inspector of customs was totally disabled by sickness or absence from performing his official duties, or was engaged simultaneously in some absorbing employment incompatible with the effective discharge of his official duties, I think it is legally presumable that he is employed all the time that he holds himself in readiness to do the services pertaining to his office, and does such services as become necessary.

This principle has been firmly established by the usage of the Treasury Department ever since the establishment of the government. Not only are the officers of the Treasury, whose pay is determined by the year, allowed full compensation without abatement for Sundays, holidays, and also during a vacation, not exceeding thirty days, but the same privilege is extended to those subordinate officers of the customs whose pay is determined by the day.

Ware's case, vol. 7, Court Claims, page 565, and Sleigh case, vol. 9, Court Claims, page 369, have been cited by the counsel for the claimant, but I do not think they are applicable. In those cases it was held that a clerk in the Treasury Department, whose annual salary was fixed by law, might receive his whole salary, although the facts in his case show that during the part of the year he was incapacitated and did not perform the duties of his office. But the method of compensation of inspectors is entirely different. They are paid by the day for the time actually employed, and there must be actual employment to entitle them to their compensation. I understand that it has been the uniform practice of the Treasury Department to pay inspectors for the entire year at whatever rate *per diem* has been fixed by law.

This must be considered a construction by the Treasury Department that actual

which is fixed by statute at $3. It had a right, and it was its duty, to determine
term of service, and it has fixed that as continuing through the whole year.

3. The receipt of the claimant for a sum less than the lawful per diem, altho
acknowledged to be "in full for my compensation," does not preclude him from cla
ing any additional compensation to which he was legally entitled. A receipt is ne
anything but *prima facie* evidence of satisfaction, and is open to contradiction.
settlement made under a mistake of his legal rights will not bind the claimant.
I have said before, an overpayment might be recovered back, and for the same
son an unpaid balance, though afterwards discovered, may be legally and fa
claimed.

I am reminded that upon a settlement of this claim depends many other of a si
lar character, the allowance of which will require a considerable sum to be ta
from the Treasury

The head of the Treasury Department will be likely to consider what remedies
be within his reach against what I justly think may be deemed a piece of inconsi
ate and improvident legislation. One remedy that has been proposed is to cause
spectors to be employed only a certain definite number of days in the year, and h
that contract of employment expressed in their appointment. But I do not see l
any greater activity of service can be secured for a part of the year, arbitra
selected, than for the whole year, if from the nature and situation of the district
service is of that negative and merely preventive character whose utility I have
considered; nor do I see how with safety the necessary vigilance of customs offi
can be intermitted for certain previously-determined periods, without exposing
national revenue to depredation. If inspectors are necessary at all they are necess
all the time.

Another prudential measure is to employ detective officers to watch the inspect
and report when they are employed and when they are idle. But, "*quis custodiet*
todes," will it not be necessary to employ other detectives to watch the detecti
whom you pay by the day to watch the inspectors, to see that the detectives do a j
day's work, and so *ad infinitum*.

Besides your detective's report is worthless. He says, perhaps he found this offi
doing nothing whatever, or cobbling shoes, or playing checkers. But there was no
ing for him to do, and yet his very idleness was useful and necessary to the gove
ment, for he was at his post of duty, and, though idle, his very presence and author
preserved the revenue from depredation.

Better than either of these methods is the more effectual remedy of restoring by le
islation of Congress the discretion which the law had placed in the Secretary of t
Treasury ever since the beginning of the government, to fix the compensation of i
spectors according to the place, duties, and in reference to the fact that the comple
discharge of its duties is not inconsistent with some other employment.

Doubtless in the principal ports, where there are larger importations, and whe
customs officers of all grades are constantly and responsibly employed, their pay ong
to be clear up to the maximum fixed by law.

But there are many collection districts and ports where the duties of an inspect

[Indorsement.]

TREASURY DEPARTMENT,
October 14, 1876.

The inclosed cases are respectfully referred to the First Auditor for examination and settlement, in accordance with the opinion of the Solicitor as given thereon.

L. M. MORRILL,
Secretary.

The allowed claims reported by the Secretary of the Treasury to Congress for an appropriation, found on pages 13–20 of H. Ex. Doc. No. 26 of this session, are for the lawful compensation of inspectors of customs under sections 2733 and 2738 of the Revised Statutes.

For the time covered by these claims the inspectors, in whose favor the amounts are severally certified, were paid *less* than the lawful salary. Such payments by the collectors of customs were not a discharge of the full salary, but were partial payments only. These reported allowances are the difference between such partial payments and the *full lawful salary*, and when paid will *just complete* the lawful salary which should have been *originally* paid.

The law on this point is plain, emphatic, and decisive, leaving no option or discretion in the Secretary of the Treasury or other officer in regard to the salary to be paid. When an inspector was appointed and qualified and entered upon his duties *the law unconditionally determined his salary.*

The inspectors were *in office at the time the law was enacted* which fixed their salary at $3 per day, absolutely, and *there was no agreement, understanding, contract, or suggestion between the department and the inspectors that they were to receive less than the full lawful salary.*

These claims are *not old* or stale. None of them date prior to June, 1874.

The Solicitor of the Treasury gave an opinion favorable to the payment of the full legal salary, which was approved by Secretary Lot M. Morrill, and in pursuance thereof the allowances were made. Yet, in fact, no allowance has been made except after a special official report from the collector under whom the inspector served, showing his daily attendance upon duty and the kind of service rendered.

That these inspectors obtained vested rights under the statute by their services, no one can deny.

The greater number of these claims have been already paid; many have been paid by the department out of current funds, and Congress has *three times* appropriated for their payment. (Sec. 20, Stat., 421, Stat., 255 and 429.) The law has been modified so as to give the Secretary of the Treasury authority to employ inspectors at a compensation less than $3 per day in such places as he may be able. Hence no new cases can arise.

The Supreme Court in the very recent cases of Merritt *vs.* Welsh (sugar cases) and of the United States *vs.* Temple reaffirmed and pointedly stated the doctrine that the executive departments have no right to modify or nullify existing law. Hence they could make no valid agreements repugnant to law.

It follows that the inspectors should be paid according to law, and that the necessary appropriation should be made as a matter of course.

Respectfully submitted.

A statement of the law governing the salary of inspectors of customs.

By the act of March 3, 1799 (1 Stat., 707), the compensation of inspectors of customs was established at a sum not exceeding $2 for every day of actual employment. By the act of April 26, 1816 (3 Stat., 306), that compensation was increased 50 per centum, so that each inspector became entitled to a salary not exceeding $3 for each day of actual employment. Under these provisions of law $3 became the *maximum* limit of compensation, and so remained until the act of April 29, 1864 (13 Stat., 61), which authorized the Secretary of the Treasury to increase the *maximum* compensation to $4 per day, which, by other enactments, continues to be the highest rate of pay authorized by law for inspectors of customs. (See R. S., sec. 2737.)

Until the enactment of the Revised Statutes (June 22, 1874) there had never been a *minimum* limitation to the salary of inspectors. Prior to that date any compensation less than $3 per day, which the inspector might accept and the Secretary of the Treasury approve, became his lawful salary.

By section 2733 of the Revised Statutes $3 per day became the *minimum* salary: no discretion or authority was vested in or permitted to the Secretary to pay a less compensation. The statute was couched in positive and mandatory language, as follows:

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1275.

EXTENDING FISHING SEASON IN THE DISTRICT OF COLUMBIA.

MAY 27, 1882.—Ordered to be printed.

Mr. URNER, from the Committee on the District of Columbia, submitted the following

REPORT:

[To accompany joint resolution No. 213.]

The Committee on the District of Columbia, to whom was referred the petition of R. A. Golden and others, asking for an extension of the fishing season in the District of Columbia to the 15th of June, for this year, respectfully report:

That they have considered said petition, and in view of the fact that during the present season the temperature of the water of the Potomac has been so low as to interfere with the running of fish, the committee are of opinion the public interests require an extension of the fishing season, as asked for by the petitioners. The committee refer to the accompanying letter of Prof. S. F. Baird, United States Fish Commissioner, which they pray may be considered a part of this report.

UNITED STATES COMMISSION FISH AND FISHERIES,
Washington, D. C., May 17, 1882.

SIR: I am in receipt of your letter asking my opinion as to the propriety of granting the petition of the fishermen of the District for an extension of the open season until June 15. This request is, I think, an eminently proper one, and in my opinion should be granted, inasmuch as the season is at least two weeks behind its average. It is quite safe to say that the shad and herring on June 15 will, on the whole, be no further advanced than they usually are by June 1. The fish do not run freely in the river until its temperature reaches 60° and over, which degree has not yet been attained, the thermometer yesterday showing only 57°.

I would not recommend any change in the general law, which appears to be well calculated to secure the interests of the community, but I would be very glad to see favorable action taken by your committee as regards the present season.

Yours, very respectfully,

SPENCER F. BAIRD,
Commissioner.

Hon. MILTON G. URNER,
Committee on the District of Columbia, House of Representatives.

C

47TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1276.

LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIATION BILL.

JUNE 2, 1882.—Committed to the Committee of the Whole House on the State of the Union, and ordered to be printed.

Mr. CANNON, from the Committee on Appropriations, submitted the following

REPORT:

[To accompany bill H. R. 6244.]

In presenting to the House the bill making appropriations to provide for the legislative, executive, and judicial expenses of the government for the fiscal year ending June 30, 1883, the Committee on Appropriations submit the following report:

The estimates upon which the bill is mainly based are to be found on pages 9 to 57, and 60 to 65, and 197 and 198 of the book of estimates. The total amount thereof, added to subsequent estimates submitted by letters from heads of the several departments to Congress or to the committee, aggregate, in all, $21,165,903.65, of which sum the committee, after the most careful investigation possible of the requirements of the service, recommend in the accompanying bill the sum of $19,777,627.90, being a decrease under the estimates of $1,388,275.75.

The appropriations for the current fiscal year for legislative, executive, and judicial expenses amount to $17,040,679.49, to which sum, however, should be added deficiencies already given on account of that service as follows: In the General Land Office, $25,000; in the Patent Office, $43,733; for the Pension Office, $73,900; for stationery, Interior Department, $4,000; for contingent expenses War Department, $4,500; for the expenses of Congress, $31,831. There is also pending before Congress an estimated deficiency on account of salaries and expenses of agents and surveyors and other miscellaneous expenses of the Internal Revenue Service, amounting to $210,000, which will necessarily have to be provided for. Making, in all, the sum of $392,964, or $17,433,643.49 for the appropriations for the current fiscal year.

There are included in the bill for the ensuing year items which have heretofore been carried in the sundry civil and other appropriation bills, and now, for the first time, are included in this bill, aggregating $381,396, which, when deducted, make the total of the bill $19,396,231.90, or $1,962,588.41 in excess of the appropriations for the current year, including deficiencies as stated above.

The material increase of clerical force which is recommended in the bill is on account of greatly increased work in the several bureaus of the departments incident to the settlement of claims for pensions and arrears of pensions, and is made upon the basis of supplying sufficient clerical

STATEMENT A.—*Additional force authorized for the purpose of facilitating the settlement of pension cases and increase of contingent expenses.*

Bureau or office.	Number.	Totals.	Aggregates by classes.	Aggregates by bureaus.
PENSION OFFICE.				
Clerks of class 4	74		$133,200	
Clerks of class 3	47		75,200	
Clerks of class 2	244		341,600	
Clerks of class 1	165		198,000	
Clerks, at $1,000 each	140		140,000	
Copyists, at $900 each	107		96,300	
Copyists, at $840 each	7		5,880	
Copyists, at $720 each	5		3,600	
Watchmen, at $720 each	18		12,960	
Laborers, at $660 each	10		6,660	
		817		$1,013,400
For traveling and contingent expenses				184,000
SURGEON-GENERAL'S OFFICE.				
Clerks of class 4	21		37,800	
Clerks of class 3	26		41,600	
Clerks of class 2	53		74,200	
Clerks of class 1	50		60,000	
Assistant messengers, at $720 each	6		4,320	
Watchmen, at $720 each	3		2,160	
Laborers, at $660 each	6		3,960	
Superintendent of building	1		250	
		166		224,290
For rent and contingent expenses				20,000
ADJUTANT-GENERAL'S OFFICE.				
Clerks of class 4	5		9,000	
Clerks of class 3	8		12,800	
Clerks of class 2	12		16,800	
Clerks of class 1	125		150,000	
Assistant messengers, at $720 each	7		5,040	
Watchmen, at $720 each	7		5,040	
Laborers, at $660 each	3		1,980	
		167		200,660
For rent and contingent expenses				20,000
SECRETARY OF WAR'S OFFICE.				
Clerks of class 3	2		3,200	
Clerks of class 2	3		4,200	
Clerks of class 1	5		6,000	
Messengers, at $840 each	2		1,680	
		12		15,080
SECOND COMPTROLLER'S OFFICE.				
Clerks of class 4	4		7,200	
Clerks of class 3	4		6,400	
		8		13,600
SECOND AUDITOR'S OFFICE.				
Clerks of class 1	20		24,000	24,000
		20		
THIRD AUDITOR'S OFFICE.				
Clerks of class 3	5		8,000	
Clerks of class 2	7		9,800	
Clerks of class 1	8		9,600	
		20		27,400
Grand totals		1,210		1,742,430

Additional force is authorized in the following departments or bureau in addition to what was employed during the current year, namely:

In the Sixth Auditor's Office, 51 persons, at a cost of $64,000.

In the General Land Office, 48 persons, at a cost of $72,580.

In the Patent Office, 37 persons, at a cost of $67,930.

In the Post-Office Department, 41 persons, at a cost of $49,570.

In the Department of Justice, 10 persons, at a cost of $9,150.

The total number of persons employed in the several executive partments and their respective bureaus or offices at Washington un specific authority of law, during the current year, is 5,313; the num employed and paid from miscellaneous appropriations is 840; mak in all, 6,155 actually in service during the current fiscal year, at an gregate cost of $7,367,531.82. The number estimated for for the s ice of the ensuing fiscal year of 1883 is 7,649, at a cost of $9,447, The number recommended in the bill is 7,522, at a cost per annu $9,195,611.25.

Statement B, which herewith follows, exhibits in detail, by bur or offices in each department, the distribution of the force above refe to.

STATEMENT B.

Showing the number of employés, their grades and salaries, in the several executive departments, provided for by specific appropriations, for the fiscal year 1882, and those employed during that period and paid from miscellaneous appropriations, the number estimated for for the fiscal year 1883, including both of the above classes, and those recommended in the bill for the fiscal year ending June 30, 1883.

STATE DEPARTMENT.

CLASS. As now specifically appropriated for or employed.	As provided by specific appropriation for 1882.	As employed from miscellaneous appropriations.	Amounts.	CLASS. As estimated for, or recommended in the bill for 1883.	As estimated for 1883.	Amounts.	Recommended in bill for 1883.	Amounts.
Secretary, at $8,000	1	.....	$8,000 00	Secretary, at $8,000	1	$8,000 00	1	$8,000 00
Assistant Secretary, at $4,500	1	.....	4,500 00	Assistant Secretary, at $4,500	1	4,500 00	1	4,500 00
Assistant Secretaries, at $3,500 each	2	.....	7,000 00	Assistant Secretaries, at $3,500 each	2	7,000 00	2	7,000 00
Clerks, messengers, assistants, watchmen and others	91	.....	96,940 00	Clerks, messengers, assistants, watchmen and others	96	106,880 00	94	100,710 00
Watchman	.....	1	720 00	Watchman	1	720 00	1	720 00
Packer	.....	1	720 00	Packer	1	720 00	1	720 00
Totals	95	2	117,880 00	Totals	102	127,820 00	100	121,650 00

TREASURY DEPARTMENT.

OFFICE OF THE SECRETARY.

Secretary, at $8,000	1	.....	$8,000 00	Secretary, at $8,000	1	$8,000 00	1	$8,000 00
Assistant Secretaries, at $4,500	2	.....	9,000 00	Assistant Secretaries, at $4,500	2	9,000 00	2	9,000 00
Chief clerk, at $2,700	1	.....	2,700 00	Chief clerk, at $2,700	1	2,700 00	1	2,700 00
Stenographer, at $2,000	1	.....	2,000 00	Stenographer, at $2,000	1	2,000 00	1	2,000 00
Chiefs of division, at $2,750	2	1	8,250 00	Chiefs of division, at $2,750*	3	8,250 00	2	5,500 00
Assistant chief of division, at $2,400	1	.....	2,400 00	Assistant chief of division, at $2,400	1	2,400 00	1	2,400 00
Chiefs of division, at $2,500	6	.....	15,000 00	Chiefs of division, at $2,500*	6	15,000 00	7	17,500 00
				Estimate and digest clerk, at $2,000†	1	2,000 00	.....	.....
Assistant chiefs of division, at $2,100	2	.....	4,200 00	Assistant chiefs of division, at $2,100	1	4,200 00	2	4,200 00
Assistant chiefs of division, at $2,000	6	.....	12,000 00	Assistant chiefs of division, at $2,000	6	12,000 00	6	12,000 00
Disbursing clerks, at $2,500	2	.....	5,000 00	Disbursing clerks, at $2,500	2	5,000 00	2	5,000 00
				Superintendent of mails, at $2,500	1	2,500 00	.....	.....
Government actuary, at $2,000	1	.....	2,000 00	Government actuary, at $2,000	1	2,000 00	1	2,000 00

* One reduced and added to chiefs of division, at $2,500.

† Reduced and added to clerks of class four.

Statement showing the number of employés, their grades and salaries, in the several executive departments, &c.—Continued.

TREASURY DEPARTMENT—Continued.

OFFICE OF THE SECRETARY—Continued.

CLASS. As now specifically appropriated for or employed.	As provided by specific appropriation for 1882.	As employed from miscellaneous appropriations.	Amounts.	CLASS. As estimated for or recommended in the bill for 1883.	As estimated for 1883.	Amounts.	Recommended in bill for 1883.	Amounts.
Clerks of class four	40	2	75,600 00	Clerks of class four*	44	$79,200 00	43	$77,400 00
Additional to three clerks of class four, $100 each			300 00	Additional to three clerks of class four, $100 each		300 00		300 00
Clerks of class three	25	2	43,200 00	Clerks of class three†	27	43,200 00	29	46,400 00
Clerks of class two	21	5	36,400 00	Clerks of class two‡	27	37,800 00	27	37,800 00
Clerks of class one	15	6	25,200 00	Clerks of class one§	30	36,000 00	24	28,800 00
Clerks, at $1,000 each	11	1	12,000 00	Clerks, at $1,000 each‖	15	15,000 00	15	15,000 00
Clerks, at $900 each	50	4	48,600 00	Clerks, at $900 each¶	53	47,700 00	53	47,700 00
Messengers, at $840 each	7	3	8,400 00	Messengers, at $840 each	10	8,400 00	10	8,400 00
Assistant messengers, at $720 each	7	3	7,200 00	Assistant messengers, at $720 each	10	7,200 00	10	7,200 00
Foreman of laborers, at $1,200		1	1,200 00	Foreman of laborers, at $1,000	1	1,000 00	1	1,000 00
Laborer in charge of stables, at $840		1	840 00	Laborer in charge of stables, at $840	1	840 00		
Laborers, at $660 each	42	4	30,360 00	Laborers, at $660 each	46	30,360 00	47	31,020 00
Laborers, at $600 each		8	4,800 00	Laborers, at $500 each	11	5,500 00	11	5,500 00
Laborers, at $540 each		1	540 00					
Laborers, at $480 each		2	960 00					
Laborers, at $360 each		3	1,080 00	Laborers, at $360 each	3	1,080 00	3	1,080 00
For superintendent of Treasury building			300 00	For superintendent of Treasury building		300 00		300 00
Captain of the watch	1		1,400 00	Captain of the watch	1	1,400 00	1	1,400 00
Engineer	1		1,400 00	Engineer	1	1,400 00	1	1,400 00
Assistant engineer	1		1,000 00	Assistant engineer	1	1,000 00	1	1,000 00
Machinist and gas-fitter	1		1,200 00	Machinist and gas-fitter	1	1,200 00	1	1,200 00
Storekeeper	1		1,200 00	Storekeeper	1	1,200 00	1	1,200 00
Watchmen, at $720 each	60		43,200 00	Watchmen, at $720 each	60	43,200 00	60	43,200 00
Additional to two watchmen, acting as lieutenants, at $180 each.			360 00	Additional to two watchmen, acting as lieutenants, at $180 each.		360 00		360 00
Firemen, at $720 each	6	1	5,040 00	Firemen, at $720 each	7	5,040 00	7	5,040 00
Conductors of elevator, at $720 each	2		1,440 00	Conductors of elevator, at $720 each	3	2,160 00	3	2,160 00
				Telegraph operator	1	1,200 00	1	1,200 00
Charwomen, at $180 each	75		13,500 00	Charwomen, at $180 each	75	13,500 00	75	13,500 00
Gardener		1	1,200 00	Gardener	1	840 00	1	840 00
Foreman cabinet shop, at $5 per day		1	1,565 00	Foreman cabinet shop, at $5 per day	1	1,565 00	1	1,565 00

Special furniture inspector, at $5 per day		1	1,565 00					
Draughtsman, at $4 per day		1	1,252 00	Draughtsman, at $4 per day	1	1,252 00	1	1,252 00
Cabinet-maker, at $3.50 per day		1	1,095 50	Cabinet-maker, at $3.50 per day	1	1,095 50	1	1,095 50
Cabinet-makers, at $3 per day		12	11,268 00	Cabinet-maker, at $3 per day	12	11,268 00	12	11,268 00
Cabinet-maker, at $60 per month		1	720 00	Cabinet-maker, at $660 per annum	1	660 00		
				Cabinet-maker, at $2 per day			1	626 00
Foreman of bindery, at $5 per day		1	1,565 00	Foreman of bindery, at $5	1	1,565 00	1	1,565 00
Binders, at $4 per day		4	5,008 00	Binders, at $4 per day	4	5,008 00	4	5,008 00
Sewer and folder, at $2.50 per day		1	782 50	Sewer and folder, at $2.50 per day	1	782 50	1	782 50
Clerk, at $8 per day		1	2,920 00	Clerk, at $8 per day	1	2,920 00		
Clerk, at $6 per day*		1	1,878 00					
Clerks, at $5 per day†		2	3,130 00					
Clerks, at $4 per day§		2	2,504 00					
Clerk, at $3 per day¶		1	939 00					
				Superintendent paper-room	1	1,800 00	1	1,600 00
Superintendent paper-room, at $5 per day		1	1,565 00	Paper counters, at $900 each	2	1,800 00		
Paper-cutter of paper-room, at $3 per day		1	939 00	Paper counters, at $939 and $704.25 each			2	1,643 25
Expert counter of paper-room, at $2.25		1	704 25	Paper counters and laborers, at $660 each	28	18,480 00		
Counters and laborers of paper-room, at $2 per day		28	17,528 00	Paper counters and laborers, at $2 per day each			28	17,528 00
Totals	391	110	495,398 25	Totals	512	509,626 00	504	494,633 25

OFFICE OF SUPERVISING ARCHITECT.

Supervising Architect, at $4,500	1		$4,500 00	Supervising Architect	1	$4,500 00	1	$4,500 00
Assistant and chief clerk, at $2,500	1		2,500 00	Assistant and chief clerk	1	2,500 00	1	2,500 00
Principal clerk, at $2,000	1		2,000 00	Principal clerk	1	2,000 00	1	2,000 00
Photographer, at $2,000	1		2,000 00	Photographer	1	2,000 00	1	2,000 00
Clerks, class three, at $1,600	2		3,200 00	Clerks of class three	2	3,200 00	2	3,200 00
Clerks, class one, at $1,200	3		3,600 00	Clerks of class one	3	3,600 00	3	3,600 00
Clerk, $900 class	1		900 00	Clerk	1	900 00	1	900 00
Assistant messenger, at $720	1		720 00	Assistant messenger	1	720 00	1	720 00
Totals	11		19,420 00	Totals	11	19,420 00	11	19,420 00

OFFICE OF THE FIRST COMPTROLLER.

Comptroller, at $5,000	1		$5,000 00	First Comptroller	1	$5,000 00	1	$5,000 00
Deputy Comptroller, at $2,700	1		2,700 00	Deputy Comptroller	1	2,700 00	1	2,700 00
Chief of division at $2,100	4		8,400 00	Chiefs of division, at $2,100 each	4	8,400 00	4	8,400 00
Clerks, class four, at $1,800	5		9,000 00	Clerks of class four	5	9,000 00	5	9,000 00
Clerks, class three, at $1,600	10		16,000 00	Clerks of class three	11	17,600 00	11	17,600 00
Clerks, class two, at $1,400	10		14,000 00	Clerks of class two	10	14,000 00	10	14,000 00
Clerks, class one, at $1,200	7		8,400 00	Clerks of class one	8	9,600 00	8	9,600 00

* Includes one clerk now paid $6 per day. † Includes two now paid $5 per day each. ‡ Includes one deducted from Third Auditor's Office. § Includes one deducted from Second Auditor's Office, and two now paid $4 per day each. ‖ Includes three deducted from the Third Auditors, Commissioner of Customs, and Sixth Auditor's offices, respectively. ¶ Includes one now paid $3 per day.

OFFICE OF COMMISSIONER OF CUSTOMS.

Commissioner, at $4,000	1		$4,000 00	Commissioner of Customs	1	$4,000 00	1	$4,000 00
Deputy Commissioner, at $2,250	1		2,250 00	Deputy Commissioner	1	2,250 00	1	2,250 00
Chiefs of division, at $2,100	2		4,200 00	Chiefs of divisions, at $2,100 each	2	4,200 00	2	4,200 00
Clerks, class four, at $1,800	2		3,600 00	Clerks of class four	2	3,600 00	2	3,600 00
Clerks, class three, at $1,600	4	1	8,000 00	Clerks of class three	5	8,000 00	5	8,000 00
Clerks, class two, at $1,400	10	1	15,400 00	Clerks of class two	11	15,400 00	11	15,400 00
Clerks, class one, at $1,200	9		10,800 00	Clerks of class one	9	10,800 00	9	10,800 00
Clerks, $1,000 class	3		3,000 00	Clerks, at $1,000 each	2	2,000 00	2	2,000 00
Assistant messenger, at $720	1		720 00	Assistant messenger	1	720 00	1	720 00
Laborer, at $660	1		660 00	Laborer	1	660 00	1	660 00
Totals	34	2	52,630 00	Totals	35	51,630 00	35	51,630 00

OFFICE OF THE FIRST AUDITOR.

Auditor, at $3,600	1		$3,600 00	First Auditor	1	$3,600 00	1	$3,600 00
Deputy Auditor, at $2,250	1		2,250 00	Deputy Auditor	1	2,250 00	1	2,250 00
Chiefs of division, at $2,000	4		8,000 00	Chiefs of division, at $2,000 each	4	8,000 00	4	8,000 00
Clerks, class four, at $1,800	7		12,600 00	Clerks of class four	7	12,600 00	7	12,600 00
Clerks, class three, at $1,600	9		14,400 00	Clerks of class three	9	14,400 00	9	14,400 00
Clerks, class two, at $1,400	10		14,000 00	Clerks of class two	10	14,000 00	10	14,000 00
Clerks, class one, at $1,200	16		19,200 00	Clerks of class one	16	19,200 00	16	19,200 00
Clerks, $1,000 class	3		3,000 00	Clerks, at $1,000 each	3	3,000 00	3	3,000 00
Clerks, $900 class	5		4,500 00	Clerks, at $900 each	4	3,600 00	4	3,600 00
Assistant messengers, at $720	2		1,440 00	Assistant messenger	1	720 00	1	720 00
Laborers, at $660	2		1,320 00	Laborers, at $660 each	2	1,320 00	2	1,320 00
Totals	60		84,310 00	Totals	58	82,690 00	58	82,690 00

OFFICE OF THE SECOND AUDITOR.

Auditor, at $3,600	1		$3,600 00	Second Auditor	1	$3,600 00	1	$3,600 00
Deputy Auditor, at $2,250	1		2,250 00	Deputy Auditor	1	2,250 00	1	2,250 00
Chiefs of division, at $2,000	5		10,000 00	Chiefs of division, at $2,000 each	5	10,000 00	5	10,000 00
Clerks, class four, at $1,800	9		16,200 00	Clerks of class four	9	16,200 00	9	16,200 00
Clerks, class three, at $1,600			46,400 00	Clerks of class three	29	46,400 00	29	46,400 00
Additional to one clerk, class three, as disbursing clerk, at $200.	29		200 00	Additional to one clerk of class three, as disbursing clerk.		200 00		200 00
Clerks, class two, at $1,400	60		84,000 00	Clerks of class two	60	84,000 00	60	84,000 00
Clerks, class one, at $1,200	35		42,000 00	Clerks of class one	34	40,800 00	34	40,800 00
Clerks, $1,000 class	8		8,000 00	Clerks, at $1,000 each	8	8,000 00	8	8,000 00
Assistant messengers, at $720	2		1,440 00	Assistant messengers, at $720 each	3	2,160 00	3	2,160 00
Laborers, at $660	8		5,280 00	Laborers, at $660 each	8	5,280 00	8	5,280 00
Totals	158		219,370 00	Totals	158	218,890 00	158	218,890 00
				Clerks of class one (for pension work)	20	24,000 00	20	24,000 00
				Totals	178	242,890 00	178	242,890 00

Clerks of class three	14	.....	22,400 00	Clerks of class three	14	22,400 00	14	22,400 00
Clerks of class two	8	.....	11,200 00	Clerks of class two	8	11,200 00	8	11,200 00
Clerks of class one	9	.....	10,800 00	Clerks of class one	9	10,800 00	9	10,800 00
Clerks, at $1,000 each	3	.....	3,000 00	Clerks, at $1,000 each	3	3,000 00	3	3,000 00
Clerks, at $900 each	5	.....	4,500 00	Clerks, at $900 each	5	4,500 00	5	4,500 00
Assistant messenger	1	.....	720 00	Assistant messenger	1	720 00	1	720 00
Laborers	2	.....	1,320 00	Laborers	2	1,320 00	2	1,320 00
Totals	49	.....	69,390 00	Totals	49	69,390 00	49	69,390 00

OFFICE OF THE FIFTH AUDITOR.

Auditor, at $3,600	1	.....	$3,600 00	Fifth Auditor	1	$3,600 00	1	$3,600 00
Deputy Auditor, at $2,250	1	.....	2,250 00	Deputy Auditor	1	2,250 00	1	2,250 00
Chiefs of division, at $2,000	2	.....	4,000 00	Chiefs of divisions, at $2,000 each	2	4,000 00	2	4,000 00
Clerks, class four, at $1,800	2	3	9,000 00	Clerks of class four	5	9,000 00	5	9,000 00
Clerks, class three, at $1,600	5	.....	8,000 00	Clerks of class three	5	8,000 00	5	8,000 00
Clerks, class two, at $1,400	4	.....	5,600 00	Clerks of class two	4	5,600 00	4	5,600 00
Clerks, class one, at $1,200	6	.....	7,200 00	Clerks of class one	6	7,200 00	6	7,200 00
Clerks, $1,000 class	2	.....	2,000 00	Clerks, at $1,000 each	2	2,000 00	2	2,000 00
Clerks, $900 class	3	.....	2,700 00	Clerks, at $900 each	4	3,600 00	4	3,600 00
Messenger, at $840	1	.....	840 00	Messenger	1	840 00	1	840 00
Laborer, at $660	1	.....	660 00	Assistant messenger	1	720 00	1	720 00
				Laborer	1	660 00	1	660 00
Totals	28	3	45,850 00	Totals	33	47,470 00	33	47,470 00

OFFICE OF THE SIXTH AUDITOR.

Auditor, at $3,600	1	.....	$3,600 00	Sixth Auditor	1	$3,600 00	1	$3,600 00
Deputy Auditor, at $2,250	1	.....	2,250 00	Deputy Auditor	1	2,250 00	1	2,250 00
Chief clerk, at $2,000	1	.....	2,000 00	Chief clerk	1	2,000 00	1	2,000 00
Chiefs of division at $2,000	8	.....	16,000 00	Chiefs of divisions, at $2,000 each	8	16,000 00	8	16,000 00
Clerks, class four, at $1,800 Additional to one clerk, class four, as disbursing clerk, $200.	13	.....	23,400 00 200 00	Clerks of class four Additional to one clerk of class four as disbursing clerk.	15	27,000 00 200 00	15	27,000 00 200 00
Clerks, class three, at $1,600	58	.....	92,800 00	Clerks of class three	63	100,800 00	63	100,800 00
Clerks, class two, at $1,400	69	.....	96,600 00	Clerks of class two	74	103,600 00	74	103,600 00
Clerks, class one, at $1,200	50	.....	60,000 00	Clerks of class one	56	67,200 00	56	67,200 00
Clerks, $1,000 class	30	.....	30,000 00	Clerks, at $1,000 each	32	32,000 00	32	32,000 00
Female assorters of money-orders, at $900	18	.....	16,200 00	Female assorters of money-orders, at $900 each	23	20,700 00	23	20,700 00
Skilled laborer, at $1,000	1	.....	1,000 00	Assistant messengers	3	2,160 00	3	2,160 00

Statement showing the number of employés, their grades and salaries, in the several executive departments, &c.—Continued.

TREASURY DEPARTMENT—Continued.

OFFICE OF THE SIXTH AUDITOR—Continued.

CLASS. As now specifically appropriated for or employed.	As provided by specific appropriation for 1882.	As employed from miscellaneous appropriations.	Amounts.	CLASS. As estimated for, or recommended in the bill for 1883.	As estimated for 1883.	Amounts.	Recommended in bill for 1883.	Amounts.
Assistant messenger, at $720	1	.....	$720 00	Laborers, at $660 each	20	$13,200 00	20	$13,200 00
Laborer, at $660	19	.....	12,540 00	Charwomen, at $180 each	10	1,800 00	10	1,800 00
Charwoman, at $180	10	.....	1,800 00					
Totals	280	.....	359,110 00	Totals	307	392,510 00	307	392,510 00
				To audit and settle accounts:				
				Clerks of class four	4	7,200 00	4	7,200 00
				Clerks of class three	6	9,600 00	6	9,600 00
				Clerks, at $900 each	4	3,600 00	4	3,600 00
				Temporary, to dispose of accumulated money-orders:				
				Clerks of class one	3	3,600 00	3	3,600 00
				Clerks, at $1,000 each	3	3,000 00	3	3,000 00
				Clerks, at $900	4	3,600 00	4	3,600 00
				Totals	331	423,110 00	331	423,110 00

OFFICE OF THE TREASURER OF THE UNITED STATES.

Treasurer, at $6,000	1	.....	$6,000 00	Treasurer	1	$6,000 00	1	$6,000 00
Assistant Treasurer, at $3,600	1	.....	3,600 00	Assistant Treasurer	1	3,600 00	1	3,600 00
Cashier, at $3,600	1	.....	3,600 00	Cashier	1	3,600 00	1	3,600 00
Assistant cashier, at $3,200	1	.....	3,200 00	Assistant cashier	1	3,200 00	1	3,200 00
Chief clerk, at $2,500	1	.....	2,500 00	Chief clerk	1	2,500 00	1	2,500 00
Chief of division, at $2,500	5	.....	12,500 00	Chiefs of divisions, at $2,500 each	5	12,500 00	5	12,500 00
Principal book-keeper, at $2,500	1	.....	2,500 00	Principal book-keeper	1	2,500 00	1	2,500 00
Assistant book-keeper, at $2,400	1	.....	2,400 00	Assistant book-keeper	1	2,400 00	1	2,400 00
Teller, at $2,500	2	.....	5,000 00	Tellers, at $2,500 each	2	5,000 00	2	5,000 00
Assistant teller, at $2,250	2	.....	4,500 00	Assistant tellers, at $2,250 each	2	4,500 00	2	4,500 00
Clerks, class four, at $1,800	26	.....	46,800 00	Clerks of class four	26	46,800 00	26	46,800 00

Clerk, class three, at $1,600	17		27,200 00	Clerks of class three	17	27,200 00	17	27,200 00
Clerk, class two, at $1,400	15		21,000 00	Clerks of class two	15	21,000 00	15	21,000 00
Clerk, class one, at $1,200	23		27,600 00	Clerks of class one	23	27,600 00	23	27,600 00
Coin clerk, at $1,200		1	1,200 00	Coin clerk	1	1,500 00	1	1,400 00
Clerk, $1,000 class	5		5,000 00	Clerks, at $1,000 each	5	5,000 00	5	5,000 00
Clerk, $900 class	80		72,000 00	Clerks, at $900 each	80	72,000 00	80	72,000 00
Messenger, at $840	6		5,040 00	Messengers, at $840 each		5,040 00	6	5,040 00
Assistant messenger, at $720	6		4,320 00	Assistant messengers, at $720 each	6	4,320 00	6	4,320 00
Laborer, at $660	26		17,160 00	Laborers, at $660 each	26	17,160 00	26	17,160 00
Laborer, at $240	7		1,680 00	Laborers, at $240 each	7	1,680 00	7	1,680 00
Totals	227	1	274,800 00	Totals	228	275,100 00	228	275,000 00
Office of Treasurer of United States (National Currency, to be reimbursed by national banks).				*Office of Treasurer of United States (National Currency, to be reimbursed by national banks).*				
Superintendent, at $3,500	1		3,500 00	Superintendent	1	3,500 00	1	3,500 00
Principal teller, at $2,500	1		2,500 00	Principal teller and one principal bookkeeper, at $2,500 each.	2	5,000 00	2	5,000 00
Principal bookkeeper, at $2,500	1		2,500 00					
Assistant bookkeeper, at $2,400	1		2,400 00	Assistant bookkeeper	1	2,400 00	1	2,400 00
Assistant teller, at $2,000	1		2,000 00	Assistant teller	1	2,000 00	1	2,000 00
Clerk, class four, at $1,800	2		3,600 00	Clerks of class four	2	3,600 00	2	3,600 00
Clerk, class three, at $1,600	3		4,800 00	Clerks of class three	3	4,800 00	3	4,800 00
Clerk, class two, at $1,400	4		5,600 00	Clerks of class two	4	5,600 00	4	5,600 00
Clerk, class one, at $1,200	20		24,000 00	Clerks of class one	20	24,000 00	20	24,000 00
Clerk, $1,000 class	10		10,000 00	Clerks, at $1,000 each	10	10,000 00	10	10,000 00
Clerk, $900 class	10		9,000 00	Clerks, at $900 each	10	9,000 00	10	9,000 00
Assistant messenger, at $720	4		2,880 00	Assistant messengers, at $720 each	4	2,880 00	4	2,880 00
Totals	58		72,780 00	Totals	58	72,780 00	58	72,780 00

OFFICE OF THE REGISTER OF THE TREASURY.

Register, at $4,000	1		$4,000 00	Register	1	$4,000 00	1	$4,000 00
Assistant Register, at $2,250	1		2,250 00	Assistant Register	1	2,250 00	1	2,250 00
Chiefs of division, at $2,000	5		10,000 00	Chiefs of division, at $2,000 each	5	10,000 00	5	10,000 00
Clerks class four, at $1,800	18		32,400 00	Clerks of class four	18	32,400 00	18	32,400 00
Additional to one clerk, class four, as disbursing clerk			200 00	Additional to clerk of class four, as disbursing agent		200 00		200 00
Clerk, class three, at $1,600	17	1	28,800 00	Clerks of class three	18	28,800 00	18	28,800 00
Clerk, class two, at $1,400	15		21,000 00	Clerks of class two	15	21,000 00	15	21,000 00
Clerk, class one, at $1,200	20		24,000 00	Clerks of class one	19	22,800 00	19	22,800 00
Clerk, $1,000 class	4		4,000 00	Clerks, at $1,000 each	4	4,000 00	4	4,000 00
Clerk, $900 class	60		54,000 00	Copyists and counters, at $900 each	58	52,200 00	58	52,200 00
Messenger, at $840	1		840 00	Messenger	1	840 00	1	840 00
Assistant messenger, at $720	5		3,600 00	Assistant messengers, at $720 each	5	3,600 00	5	3,600 00
Laborer, at $660	7	1	5,280 00	Laborers, at $660 each	8	5,280 00	8	5,280 00
Totals	154	2	190,370 00	Totals	153	187,370 00	153	187,370 00

Statement showing the number of employés, their grades, and salaries, in the several executive departments, &c.—Continued.

TREASURY DEPARTMENT—Continued.

COMPTROLLER OF THE CURRENCY.

CLASS. As now specifically appropriated for or employed.	As provided by specific appropriation for 1882.	As employed from miscellaneous appropriations.	Amounts.	CLASS. As estimated for or recommended in the bill for 1883.	As estimated for 1883.	Amounts.	Recommended in bill for 1883.	Amounts.
Comptroller	1	.....	$5,000 00	Comptroller	1	$5,000 00	1	$5,000 00
Deputy Comptroller	1	.....	2,800 00	Deputy Comptroller	1	2,800 00	1	2,800 00
Chiefs of division, at $2,200 each	4	.....	8,800 00	Chiefs of division at $2,200 each	4	8,800 00	4	8,800 00
Stenographer	1	.....	1,600 00	Stenographer	1	1,600 00	1	1,600 00
Clerks of class four	8	.....	14,400 00	Clerks of class four	8	14,400 00	8	14,400 00
Additional to bond clerk	.....	.....	200 00	Additional to bond clerk	.....	200 00	.....	200 00
Clerks of class three	11	.....	17,600 00	Clerks of class three	11	17,600 00	11	17,600 00
Clerks of class two	8	.....	11,200 00	Clerks of class two	8	11,200 00	8	11,200 00
Clerks of class one	8	.....	9,600 00	Clerks of class one	8	9,600 00	8	9,600 00
Clerks at $1,000 each	2	.....	2,000 00	Clerks at $1,000 each	2	2,000 00	2	2,000 00
Clerks at $900 each	25	.....	22,500 00	Clerks at $900 each	25	22,500 00	25	22,500 00
Messenger	1	.....	840 00	Messenger	1	840 00	1	840 00
Assistant messengers	2	.....	1,440 00	Assistant messengers	2	1,440 00	2	1,440 00
Night watchmen	2	.....	1,440 00	Night watchmen	2	1,440 00	2	1,440 00
Laborers	3	.....	1,980 00	Laborers	3	1,980 00	3	1,980 00
Engineer, at $1,000	.....	1	1,000 00	Engineer, at $1,000	1	1,000 00	1	1,000 00
Fireman, at $720	.....	1	720 00	Fireman, at $720	1	720 00	1	720 00
Totals	77	2	103,120 00	Totals	79	103,120 00	79	103,120 00

COMPTROLLER OF THE CURRENCY (NATIONAL CURRENCY TO BE REIMBURSED BY NATIONAL BANKS).

Superintendent, tellers, and clerks	14	.....	$16,820 00	Superintendent, tellers, and clerks	14	$16,820 00	14	$16,820 00
Totals	14	.....	16,820 00	Totals	14	16,820 00	14	16,820 00

OFFICE OF COMMISSIONER OF INTERNAL REVENUE.

Commissioner, at $6,000	1	.....	$6,000 00	Commissioner of Internal Revenue	1	$6,000 00	1	$6,000 00
Deputy Commissioner, at $3,200	1	.....	3,200 00	Deputy Commissioner	1	3,200 00	1	3,200 00
Heads of division, at $2,500	2	.....	5,000 00	Heads of division, at $2,500 each	2	5,000 00	2	5,000 00
Heads of division, at $2,250	5	.....	11,250 00	Heads of division, at $2,250 each	5	11,250 00	5	11,250 00
Stenographer, at $1,800	1	.....	1,800 00	Stenographer	1	1,800 00	1	1,800 00
Clerks class four, at $1,800	23	1	43,200 00	Clerks of class four	24	43,200 00	24	43,200 00
Clerks class three, at $1,600	26	.....	40,000 00	Clerks of class three	25	40,000 00	25	40,000 00
Clerks of class two, at $1,400	36	.....	50,400 00	Clerks of class two	36	50,400 00	36	50,400 00
Clerks of class one, at $1,200	21	2	27,600 00	Clerks of class one	23	27,600 00	23	27,600 00
Clerks of $1,000 class	13	1	14,000 00	Clerks, at $1,000 each	14	14,000 00	14	14,000 00
Clerks of $900 class	50	26	68,400 00	Clerks, at $900 each	76	68,400 00	76	68,400 00
Assistant messengers, at $720	4	9	9,360 00	Assistant messengers, at $720 each (three additional submitted)	16	11,520 00	13	9,360 00
Laborers, at $660	10	3	8,580 00	Laborers, at $660 each	13	8,580 00	13	8,580 00
Superintendent of stamp agencies, at $2,100	.....	1	2,100 00	Superintendent of stamp agencies	1	2,100 00	1	2,100 00
Superintendent of stamp vault, at $2,000	.....	1	2,000 00	Superintendent of stamp vault	1	2,000 00	1	2,000 00
*Stamp agent, at $1,600	.....	2	3,200 00	*Stamp agents, at $1,600 each	2	3,200 00	2	3,200 00
*Counter, at $900	.....	3	2,700 00	*Counters, at $900 each	3	2,700 00	3	2,700 00
Totals	193	49	298,790 00	Totals	244	300,950 00	241	298,790 00

OFFICE OF THE LIGHT-HOUSE BOARD.

Chief clerk, at $2,400	1	.....	$2,400 00	Chief clerk	1	$2,400 00	1	$2,400 00
Clerks of class four, at $1,800	2	.....	3,600 00	Clerks of class four	2	3,600 00	2	3,600 00
Clerks of class three, at $1,600	2	.....	3,200 00	Clerks of class three	2	3,200 00	2	3,200 00
Clerk of class two, at $1,400	1	.....	1,400 00	Clerk of class two	1	1,400 00	1	1,400 00
Clerks of class one, at $1,200	3	.....	3,600 00	Clerks of class one	3	3,600 00	3	3,600 00
Clerk of $900 class	1	.....	900 00	Clerk, at $900	1	900 00	1	900 00
Assistant messenger, at $720	1	.....	720 00	Assistant messenger, at $720	1	720 00	1	720 00
Laborer, at $660	1	.....	660 00	Laborer	1	660 00	1	660 00
Totals	12	.....	16,480 00	Totals	12	16,480 00	12	16,480 00
				To be paid from appropriations for the Light-House Establishment:				
Clerk of class two	.....	1	1,400 00	Clerk of class two	1	1,400 00	1	1,400 00
Clerk of class one	.....	1	1,200 00	Clerk of class one	1	1,200 00	1	1,200 00
Clerks, at $900	.....	14	12,600 00	Clerks, at $900 each	14	12,600 00	14	12,600 00
Assistant messengers	.....	2	1,440 00	Assistant messengers	2	1,440 00	2	1,440 00
Laborer, at $600	.....	1	600 00	Laborer, at $600	1	600 00	1	600 00
Assistant civil engineer	.....	1	2,400 00	Assistant engineer	1	2,400 00	1	2,400 00
Draughtsman	.....	1	1,800 00	Draughtsman	1	1,800 00	1	1,800 00
Do	.....	1	1,680 00	.....do	1	1,680 00	1	1,680 00
Do	.....	1	1,320 00	.....do	1	1,320 00	1	1,320 00
Do	.....	1	1,200 00	.....do	1	1,200 00	1	1,200 00
Totals	12	24	42,120 00	Totals	36	42,120 00	36	42,120 00

* To be reimbursed by stamp manufacturers.

Statement showing the number of employés, their grades and salaries, in the several executive departments, &c.—Continued.

TREASURY DEPARTMENT—Continued.

BUREAU OF STATISTICS.

CLASS. As now specially appropriated for or employed.	As provided by specific appropriation for 1882.	As employed from miscellaneous appropriations.	Amounts.	CLASS. As estimated for, or recommended in the bill for 1883.	As estimated for 1883.	Amounts.	Recommended in bill for 1883.	Amounts.
Officer in charge of bureau, at $3,000	1	.....	$3,000 00	Officer in charge of bureau	1	$3,000 00	1	$3,000 00
Chief clerk, at $2,000	1	.....	2,000 00	Chief clerk	1	2,000 00	1	2,000 00
Clerks of class four, at $1,800	4	.....	7,200 00	Clerks of class four	4	7,200 00	4	7,200 00
Clerks, class three, at $1,600	5	.....	$8,000 00	Clerks of class three	5	$8,000 00	5	$8,000 00
Clerks, class two, at $1,400	5	.....	7,000 00	Clerks of class two (one additional submitted)	6	8,400 00	6	8,400 00
Clerks, class one, at $1,200	6	3	10,800 00	Clerks of class one	9	10,800 00	9	10,800 00
Clerks, $1,000 class	3	.....	3,000 00	Clerks, at $1,000 each	3	3,000 00	3	3,000 00
Clerks, $900 class	5	.....	4,500 00	Copyists, at $900 each (one additional submitted)	6	5,400 00	6	5,400 00
Assistant messenger, at $720	1	.....	720 00	Laborer	1	660 00	1	660 00
Laborer, at $660	1	.....	660 00	Female laborer	1	480 00	1	480 00
Female laborer, at $480	1	.....	480 00	Messenger	1	840 00	1	840 00
Messenger, at $840	.....	1	840 00					
Totals	33	4	48,200 00	Totals	38	49,780 00	38	49,780 00

BUREAU OF ENGRAVING AND PRINTING.

Chief of bureau	1	.....	$4,500 00	Chief of bureau	1	$4,500 00	1	$4,500 00
Assistant chief of bureau	1	.....	2,250 00	Assistant chief of bureau	1	2,250 00	1	2,250 00
Accountant	1	.....	2,000 00	Accountant	1	2,000 00	1	2,000 00
Stenographer	1	.....	1,600 00	Stenographer	1	1,600 00	1	1,600 00
Clerk of class three	1	.....	1,600 00	Clerk of class three	1	1,600 00	1	1,600 00
Clerk of class two	1	.....	1,400 00	Clerk of class two	1	1,400 00	1	1,400 00
Clerks of class one	4	.....	4,800 00	Clerks of class one	4	4,800 00	4	4,800 00
Clerk, at $1,000	1	.....	1,000 00	Clerk, at $1,000	1	1,000 00	1	1,000 00
Copyists	3	.....	2,700 00	Copyists	3	2,700 00	3	2,700 00
Assistant messengers	2	.....	1,440 00	Assistant messengers	2	1,440 00	2	1,440 00
Laborers	4	.....	2,640 00	Laborers	4	2,640 00	4	2,640 00
Additional to disbursing clerk	.....	.....	200 00	Additional to disbursing clerk	.....	200 00	.....	200 00
Totals	20	.....	26,130 00	Totals	20	26,130 00	20	26,130 00

OFFICE OF THE LIFE-SAVING SERVICE.

General Superintendent, at $4,000	1	.....	$4,000 00	General Superintendent	1	$4,000 00	1	$4,000 00
Assistant general superintendent, at $2,500	1	.....	2,500 00	Assistant general superintendent	1	2,500 00	1	2,500 00
Principal clerk, at $1,800	1	.....	1,800 00	Principal clerk	1	1,800 00	1	1,800 00
Clerk, class three, at $1,600	2	.....	3,200 00	Clerks of class three	2	3,200 00	2	3,200 00
Clerk, class two, at $1,400	1	.....	1,400 00	Clerk of class two	1	1,400 00	1	1,400 00
Clerk, class one, at $1,200	3	.....	3,600 00	Clerks of class one	3	3,600 00	3	3,600 00
Clerk, $1,000 class	2	.....	2,000 00	Clerks, at $1,000 each	2	2,000 00	2	2,000 00
Clerk, $900 class	4	.....	3,600 00	Clerks, at $900 each	5	4,500 00	5	4,500 00
Assistant messenger, at $720	1	.....	720 00	Assistant messenger	1	720 00	1	720 00
Laborer, at $660	1	.....	660 00	Laborer	1	660 00	1	660 00
Topographer and hydrographer, at $1,800	.....	1	1,800 00	Topographer and hydrographer	1	1,800 00	1	1,800 00
Civil engineer and draughtsman, at $1,600	.....	1	1,600 00	Civil engineer and draughtsman	1	1,600 00	1	1,600 00
Draughtsman, at $1,500	.....	1	1,500 00	Draughtsman	1	1,500 00	1	1,500 00
Assistant superintendent of construction, &c., at $1,200	.....	2	2,400 00					
Assistant superintendent of construction, &c., at $900	.....	1	900 00					
Totals	17	6	31,680 00	Totals	21	29,280 00	21	29,280 00

OFFICE OF THE DIRECTOR OF THE MINT.

Director of the Mint, at $4,500	1	.....	$4,500 00	Director of the Mint	1	$4,500 00	1	$4,500 00
Examiner, at $2,300	1	.....	2,300 00	Examiner	1	2,300 00	1	2,300 00
Computer, at $2,200	1	.....	2,200 00	Computer	1	2,200 00	1	2,200 00
Assayer, at $2,200	1	.....	2,200 00	Assayer	1	2,200 00	1	2,200 00
Adjuster of accounts, at $2,000	1	.....	2,000 00	Adjuster of accounts	1	2,000 00	1	2,000 00
Clerk, class three, at $1,600	1	.....	1,600 00	Clerk of class three	1	1,600 00	2	3,200 00
Clerk, class two, at $1,400	1	.....	1,400 00	Clerk of class two	1	1,400 00	1	1,400 00
Clerk, class one, at $1,200	2	1	3,600 00	Clerks of class one	3	3,600 00	2	2,400 00
Translator, at $1,200	1	.....	1,200 00	Translator	1	1,200 00	1	1,200 00
Copyist, at $900	1	.....	900 00	Copyist	1	900 00	1	900 00
Messenger, at $840	1	.....	840 00	Messengers, at $840 each (one additional submitted)	2	1,680 00	2	1,680 00
Laborer, at $660	1	.....	660 00	Assistant messenger	.....	.....	1	720 00
Clerk, at $1,000	.....	1	1,000 00	Laborer	1	660 00	.....	.....
Clerk, at $600	.....	1	600 00	Clerk	1	1,000 00	1	1,000 00
Clerk, at $360	.....	1	360 00	Clerk	1	600 00	.....	.....
				Clerk	1	360 00	.....	.....
Totals	13	4	25,360 00	Totals	18	26,200 00	16	25,700 00

SECRET SERVICE DIVISION.

Chief, clerks, and messenger boy	.....	9	$12,980 00	Chief, clerks, and messenger boy	9	$12,980 00	9	$12,980 00
Totals	.....	9	12,980 00	Totals	9	12,980 00	9	12,980 00

Statement showing the number of employés, their grades and salaries, in the several executive departments, &c.—Continued.

TREASURY DEPARTMENT—Continued.

OFFICE SUPERVISING SURGEON-GENERAL MARINE HOSPITAL SERVICE.

CLASS. As now specifically appropriated for or employed.	As provided by specific appropriation for 1882.	As employed from miscellaneous appropriations.	Amounts.	CLASS. As estimated for, or recommended in the bill for 1883.	As estimated for 1883.	Amounts.	Recommended in bill for 1883.	Amounts.
				To be paid from permanent appropriations for marine hospital service:				
Supervising Surgeon-General		1	$4,000 00	Supervising Surgeon-General	1	$4,000 00	1	$4,000 00
Surgeon		1	3,000 00	Surgeon	1	3,000 00	1	3,000 00
Passed assistant surgeon		1	1,800 00	Passed assistant surgeon	1	1,800 00	1	1,800 00
Clerk, class 4		1	1,800 00	Clerk, class 4	1	1,800 00	1	1,800 00
Clerks, class 3		5	8,000 00	Clerks, class 3	5	8,000 00	5	8,000 00
Clerk, class 1		1	1,200 00	Clerk, class 1	1	1,200 00	1	1,200 00
Copyists		6	5,400 00	Copyists	6	5,400 00	6	5,400 00
Messenger, at $600		1	600 00	Messenger, at $600	1	600 00	1	600 00
Laborer, at $480		1	480 00	Laborer, at $480	1	480 00	1	480 00
Laborer, at $360		1	360 00	Laborer, at $360	1	360 00	1	360 00
Totals		19	26,640 00	Totals	19	26,640 00	19	26,640 00

STEAMBOAT INSPECTION SERVICE.

				To be paid from permanent appropriations for steamboat inspection service:				
Supervising Inspector-General		1	$3,500 00	Supervising Inspector-General	1	$3,500 00	1	$3,500 00
Clerk, class 4		1	1,800 00	Clerk, class 4	1	1,800 00	1	1,800 00
Clerk, class 3		1	1,600 00	Clerk, class 3	1	1,600 00	1	1,600 00
Clerks, class 2		2	2,400 00	Clerks, class 2	2	2,400 00	2	2,400 00
Messenger		1	840 00	Messenger	1	840 00	1	840 00
Totals		6	10,140 00	Totals	6	10,140	6	10,140 00

STANDARD WEIGHTS AND MEASURES.

Adjuster, at $5 per day	.....	1	$1,565 00	Adjuster	1	$1,565 00	1	$1,565 00
Verifier and mechanician, at $4 per day each	.....	2	2,504 00	Verifier and mechanician	2	2,504 00	2	2,504 00
Laborer, at $1.50 per day	.....	1	470 00	Laborer	1	470 00	1	470 00
Watchman, at $2.45 per day	.....	1	894 00	Watchman	1	894 00	1	720 00
Recorder, at $60 per month	.....	1	720 00	Recorder	1	720 00	1	720 00
Totals	.....	6	6,153 00	Totals	6	6,153 00	6	5,979 00

WAR DEPARTMENT.

SECRETARY'S OFFICE.

Secretary, clerks, messengers, assistant messengers, watchmen, and laborers.	53	.....	$69,640 00	Secretary, clerks, messengers assistant messengers, watchmen, and laborers.	61	$84,010 00	54	$71,640 00
Clerks (general-service men), at average of $1,104.13 each.	.....	13	14,353 72	Clerks of class 1	7	8,400 00	7	8,400 00
				Clerks at $1,000 each	6	6,000 00	6	6,000 00
Clerks of class 3	.....	1	1,600 00	Clerks of class 3	1	1,600 00	1	1,600 00
Clerks of class 2	.....	1	1,400 00	Clerks of class 2	1	1,400 00	1	1,400 00
Clerks of class 1	.....	3	3,600 00	Clerks of class 1	3	3,600 00	3	3,600 00
				Additional clerks and messengers for pension work	12	15,080 00	12	15,080 00
Totals	53	18	90,593 72	Totals	91	120,090 00	84	107,720 00

ADJUTANT-GENERAL'S OFFICE.

Clerks, messengers, assistant messengers, watchmen, and laborers.	285	.....	$352,680 00	Clerks, messengers, assistant messengers, watchmen, and laborers.	285	$352,680 00	285	$352,680 00
				Additional clerks, assistant messengers, watchmen, and laborers for pension work.	167	200,660 00	167	200,660 00
				Clerks of class 3	10	16,000 00	10	16,000 00
Clerks, messengers, assistant messengers, and watchmen (general-service men), at average of $1,053.56 each.	.....	138	145,391 24	Clerks of class 2	20	28,000 00	20	28,000 00
				Clerks of class 1	48	57,600 00	48	57,600 00
				Messengers	5	4,200 00	5	4,200 00
				Assistant messengers	35	25,200 00	35	25,200 00
				Watchmen	20	14,400 00	20	14,400 00
Totals	285	138	498,071 24	Totals	590	698,740 00	590	698,740 00

OFFICE OF THE QUARTERMASTER-GENERAL.

Clerks, messengers, assistant messengers, laborers, engineer, fireman, watchmen, and draughtsman.	127	.....	$152,240 00	Clerks, messengers, assistant messengers, laborers, engineer, fireman, watchman, draughtsman.	127	$152,240 00	127	$152,240 00
Laborer	.....	1	240 00	Laborer	1	240 00	1	240 00
Female laborer	.....	1	225 00	Female laborer	1	225 00	1	225 00

Statement showing the number of employés, their grades and salaries, in the several executive departments, &c.—Continued.

WAR DEPARTMENT—Continued.

OFFICE OF QUARTERMASTER-GENERAL—Continued.

CLASS. As now specifically appropriated for or employed.	As provided by specific appropriation for 1882.	As employed from miscellaneous appropriations.	Amounts.	CLASS. As estimated for, or recommended in the bill for 1883.	As estimated for 1883.	Amounts.	Recommended in bill for 1883.	Amounts.
Charwoman	.....	1	$100 00	Charwoman	1	$100 00	1	$100 00
Mechanical engineer	.....	1	1,800 00	Mechanical engineer	1	1,800 00	1	1,800 00
Clerks (general-service men), at average of $1,045.42 each.	.....	11	11,499 62	Clerks, class 1	3	3,600 00	3	3,600 00
				Clerks at $1,000	8	8,000 00	8	8,000 00
General-service messenger	.....	1	930 67	Messenger	1	840 00	1	840 00
Clerks, agents, and others in claims branch	.....	73	90,180 00	Clerks, agents, and others in claims branch	73	90,180 00	55	66,580 00
Totals	127	89	257,215 29	Totals	216	257,225 00	198	233,625 00

OFFICE OF COMMISSARY-GENERAL.

Clerks, messengers, assistant messengers, watchmen, and laborers.	26	.....	$31,680 00	Clerks, messengers, assistant messengers, laborers, and watchmen.	27	$32,520 00	26	31,680 00
Clerks (general service men), at average of $1,077.27 each.	.....	11	11,849 97	Clerks of class 1	4	4,800 00	4	4,800 00
				Clerks, at $1,000 each	7	7,000 00	7	7,000 00
Totals	26	11	43,529 97	Totals	38	44,320 00	37	43,480 00

OFFICE OF SURGEON-GENERAL.

Clerks, anatomist, engineer, assistant messengers, watchmen, and laborers.	252	.....	$280,980 00	Clerks, anatomist, engineer, assistant messengers, watchmen, and laborers.	252	$280,980 00	252	$280,980 00
Clerk class one	.....	1	1,200 00	Clerk class one	1	1,200 00	1	1,200 00
Clerk class four	.....	1	1,800 00	Clerk class four	1	1,800 00	1	1,800 00
Clerks (general service men), at average of $1,063.53 each.	.....	22	23,397 67	Clerks class one	7	8,400 00	7	8,400 00
				Clerks, at $1,000 each	15	15,000 00	15	15,000 00
Messenger boy	.....	1	360 00	Messenger boy	1	360 00	1	360 00
				Additional clerks, assist. messengers, watchmen, laborers, and superintendent of building for pension work.	166	224,290 00	166	224,290 00
Totals	252	25	307,737 67	Totals	443	532,030 00	443	532,030 00

OFFICE OF CHIEF OF ORDNANCE.

Clerks, assistant messenger, and laborer	16	.....	$20,380 00	Clerks, assistant messenger, and laborer	16	$20,380 00	16	$20,380 00
Clerks and messengers (general service men), at average of $1,113.60 each.	....	20	22,272 00	Clerks class four	2	3,600 00	2	3,600 00
				Clerks, at $1,000	16	16,000 00	16	16,000 00
				Messengers	2	1,680 00	2	1,680 00
Totals	16	20	42,652 00	Totals	36	41,660 00	36	41,660 00

OFFICE OF INSPECTOR-GENERAL.

Clerks of class four	1	.....	$1,800 00	Clerk of class four	1	$1,800 00	1	$1,800 00
Assistant messenger	1	.....	720 00	Assistant messenger	1	720 00	1	720 00
General service man	.....	1	1,105 42	Clerk of class one	1	1,200 00	1	1,200 00
Totals	2	1	3,625 42	Totals	3	3,720 00	3	3,720 00

BUREAU OF MILITARY JUSTICE.

Clerks and assistant messenger	4	.....	$5,320 00	Clerks and assistant messenger	7	$10,720 00	5	$6,220 00
Clerk	.....	1	1,500 00	Clerk of class three	1	1,600 00	1	1,600 00
Clerks (general service men) at average of $1,071.76 each.	.....	3	3,215 27	Clerks of class one	2	2,400 00	2	2,400 00
				Clerk at $1,000	1	1,000 00	1	1,000 00
Messenger (general service man)	.....	1	955 66	Messenger	1	840 00	1	840 00
Totals	4	5	10,990 93	Totals	12	16,560 00	10	12,060 00

SIGNAL OFFICE.

Clerks and assistant messenger	4	.....	$5,520 00	Clerks and assistant messenger	4	$5,520 00	4	$5,520 00
Clerks and messenger (general service men) at average of $1,055.60 each.	.....	4	4,222 41	Clerks of class one	2	2,400 00	2	2,400 00
				Clerk at $1,000	1	1,000 00	1	1,000 00
				Messenger	1	840 00	1	840 00
Messenger	.....	1	480 00	.....do	1	480 00	1	480 00
Do	.....	1	420 00	.....do	1	420 00	1	420 00
Totals	4	6	10,642 41	Totals	10	10,660 00	10	10,660 00

OFFICE OF THE PAYMASTER-GENERAL.

Clerks, assistant messenger, watchmen, and laborers	43	.....	$57,140 00	Clerks, assistant messenger, watchmen, and laborers	43	$57,140 00	43	$57,140 00
Clerk of class three	.....	1	1,600 00	Clerk of class three	1	1,600 00	1	1,600 00
General service man	.....	1	1,069 42	Clerk, at $1,000	1	1,000 00	1	1,000 00
Totals	43	2	59,809 42	Totals	45	59,740 00	45	59,740 00

Statement showing the number of employes, their grades and salaries, in the several executive departments, &c.—Continued.

WAR DEPARTMENT—Continued.

OFFICE OF THE CHIEF OF ENGINEERS.

CLASS. As now specifically appropriated for or employed.	As provided by specific appropriation for 1882.	As employed from miscellaneous appropriations.	Amounts.	CLASS. As estimated for, or recommended in the bill for 1883.	As estimated for 1883.	Amounts.	Recommended in bill for 1883.	Amounts.
Clerks, assistant messenger, and laborers	17	.....	$23,240 00	Clerks, assistant messenger, and laborers	17	$23,240 00	17	$23,240 00
Totals	17	.....	23,240 00	Totals	17	23,240 00	17	23,240 00

WAR DEPARTMENT BUILDINGS.

Superintendents, engineer, assistant engineer, watchmen, conductors of elevator, laborers, firemen and charwomen.	48	.....	$25,600 00	Superintendents, engineer, assistant engineer, watchmen, conductors of elevator, laborers, firemen, and charwomen.	49	$26,320 00	48	$25,600 00
Machinist, at $900	.....	1	900 00	Machinist	1	900 00	1	900 00
Skilled laborer, at $720	.....	1	720 00	Skilled laborer	1	720 00	1	720 00
Laborer, at $600	.....	1	600 00	Laborer	1	600 00	1	600 00
General service man	.....	1	1,192 00	Foreman of laborers	1	1,000 00	1	1,000 00
Totals	48	4	29,012 00	Totals	53	29,540 00	52	28,820 00

OFFICE OF PUBLICATION OF RECORDS OF THE REBELLION.

Agent	.....	1	$2,400 00	Agent	1	$2,400 00	1	$2,000 00
Clerks of class four	.....	2	3,600 00	Clerks of class four	2	3,600 00	2	3,600 00
Clerk of class three	.....	1	1,600 00	Clerk of class three	1	1,600 00	1	1,600 00
Clerk of class two	.....	1	1,400 00	Clerk of class two	1	1,400 00	1	1,400 00
Clerks, at $1,000	.....	2	2,000 00	Clerks, at $1,000	2	2,000 00	2	2,000 00
Copyists, at $900	.....	2	1,800 00	Copyists, at $900	2	1,800 00	.....	.....
Copyists, at $840	.....	18	15,120 00	Copyists, at $840	18	15,120 00	20	16,800 00
Foreman	.....	1	1,600 00	Foreman	1	1,600 00	1	1,600 00

Pressman	.....	1	1,200 00	Pressman	1	1,200 00	1	1,200 00
Compositors, at $1,000	.....	5	5,000 00	Compositors, at $1,000	5	5,000 00	5	5,000 00
Copy-holders, at $900	.....	2	1,800 00	Copy-holders, at $900	2	1,800 00	2	1,800 00
Assistant messengers, at $720	.....	3	2,160 00	Assistant messengers, at $720	3	2,160 00	3	2,160 00
Watchmen, at $720	.....	2	1,440 00	Watchmen, at $720	2	1,440 00	2	1,440 00
Additional laborer	.....	1	600 00	Additional laborer	1	600 00	1	600 00
Totals	.....	42	41,720 00	Totals	42	41,720 00	42	41,200 00

NAVY DEPARTMENT.

SECRETARY'S OFFICE.

Secretary, clerks, messengers, and laborers	22	.....	$36,900 00	Secretary, clerks, librarian, and assistant messengers and laborers.	26	$42,420 00	22	$36,900 00
Totals	22	.....	36,900 00	Totals	26	42,420 00	22	36,900 00

BUREAU OF YARDS AND DOCKS.

Clerks, draughtsman, assistant messenger, and laborer	9	.....	$11,980 00	Clerks, draughtsman, assistant messenger, and laborer	9	$12,160 00	9	$11,980 00
Totals	9	.....	11,980 00	Totals	9	12,160 00	9	11,980 00

BUREAU OF EQUIPMENT AND RECRUITING.

Clerks, assistant messenger, and laborer	10	.....	$12,680 00	Clerks, assistant messenger, and laborer	10	$12,860 00	10	$12,680 00
Totals	10	.....	12,680 00	Totals	10	12,860 00	10	12,680 00

BUREAU OF NAVIGATION.

Clerks, assistant messenger, and laborer	6	.....	$7,180 00	Clerks, assistant messenger, and laborer	6	$7,360 00	6	$7,180 00
Totals	6	.....	7,180 00	Totals	6	7,360 00	6	7,180 00

BUREAU OF ORDNANCE.

Clerks, draughtsman, assistant messenger, and laborer	6	.....	$7,980 00	Clerks, draughtsman, assistant messenger, and laborer	6	$8,160 00	6	$7,980 00
Totals	6	.....	7,980 00	Totals	6	8,160 00	6	7,980 00

Statement showing the number of employés, their grades and salaries, in the several executive departments, &c.—Continued.

NAVY DEPARTMENT—Continued.

BUREAU OF CONSTRUCTION AND REPAIR.

CLASS. As now specifically appropriated for or employed.	As provided by specific appropriation for 1882.	As employed from miscellaneous appropriations.	Amounts.	CLASS. As estimated for or recommended in the bill for 1883.	As estimated for 1883.	Amounts.	Recommended in bill for 1883.	Amounts.
Clerks, draughtsman, assistant messenger, and laborer.	8	.....	$10,980 00	Clerks, draughtsman, assistant draughtsmen, assistant messenger, and laborer.	10	$13,960 00	9	$12,380 00
Totals	8	.....	10,980 00	Totals	10	13,960 00	9	12,380 00

BUREAU OF STEAM ENGINEERING.

Clerks, draughtsman and assistant, assistant messenger, and laborers.	9	.....	$11,290 00	Clerks, draughtsman and assistant, assistant messenger, and laborers.	9	$11,330 00	9	$11,090 00
Totals	9	.....	11,290 00	Totals	9	11,330 00	9	11,090 00

BUREAU OF PROVISIONS AND CLOTHING.

Clerks, assistant messenger, and laborer	11	.....	$14,580 00	Clerks, assistant messenger, and laborer	11	$14,760 00	11	$14,580 00
Totals	11	.....	14,580 00	Totals	11	14,760 00	11	14,580 00

BUREAU OF MEDICINE AND SURGERY.

Clerks, assistant messenger, and laborer	7	.....	$8,380 00	Clerks, assistant messenger, and laborer	7	$8,560 00	7	$8,560 00
Totals	7	.....	8,380 00	Totals	7	8,560 00	7	8,560 00

OFFICE OF JUDGE-ADVOCATE-GENERAL.

Clerks	2	.....	$2,600 00	Clerks	2	$2,600 00	2	$2,600 00
Totals	2	.....	2,600 00	Totals	2	2,600 00	2	2,600 00

NAVY DEPARTMENT BUILDING.

Superintentent, engineer and assistant, conductor of elevator, watchmen, firemen, laborers, and charwomen.	32	.....	$16,610 00	Superintendent, engineer and assistant, conductor of elevator, watchmen, firemen, laborers, and charwomen.	32	$16,850 00	32	$16,610 00
Totals	32	.....	16,610 00	Totals	32	16,850 00	32	16,610 00

NAVY DEPARTMENT SUPPLEMENTAL.

Clerks, librarian, watchmen, assistant messenger, laborers, and others.	.....	80	$60,196 50	Clerks, librarian, watchmen, assistant messengers, laborers, and others.	66	$54,740 00	54	$40,800 00
Totals	.....	80	60,196 50	Totals	66	54,740 00	54	40,800 00

INTERIOR DEPARTMENT.

SECRETARY'S OFFICE.

Secretary and assistant, clerks, messengers and assistants, laborers, watchmen and firemen.	103	.....	$115,190 00	Secretary and assistant, clerks, messengers and assistants, laborers, watchmen and firemen.	106	$123,250 00	105	$117,230 00
Clerks of class 3	.....	1	1 600 00	Clerks of class 3	1	1,600 00	1	1,600 00
Clerks of class 2	.....	2	2,800 00	Clerks of class 2	2	2,800 00	2	2,800 00
Clerks of class 1	.....	1	1,200 00	Clerks of class 1	1	1,200 00	1	1,200 00
Copyist	.....	1	900 00	Copyist	1	900 00	1	900 00
Messenger	.....	1	840 00	Messenger	1	840 00	1	840 00
Laborer	.....	1	660 00	Laborer	1	660 00	1	660 00
Skilled mechanic at $900	.....	1	900 00	Skilled mechanic at $900	1	900 00	1	900 00
Skilled mechanic at $720	.....	1	720 00	Skilled mechanic at $720	1	720 00	1	720 00
Laborer at $660	.....	1	660 00	Laborer at $660	1	660 00	1	660 00
Packers at $720 each	.....	2	1,440 00	Packers at $720 each	2	1,440 00	2	1,440 00
Totals	103	12	126,910 00	Totals	118	134,970 00	117	128,950 00

OFFICE OF ASSISTANT ATTORNEY-GENERAL.

Clerks	5	.....	$9,450 00	Clerks	9	$19,050 00	5	$9,450 00
Totals	5	.....	9,450 00	Totals	9	19,050 00	5	9,450 00

Statement showing the number of employés, their grades and salaries, in the several executive departments, &c.—Continued.

INTERIOR DEPARTMENT—Continued.

GENERAL LAND OFFICE.

CLASS. As now specifically appropriated for or employed.	As provided by specific appropriation for 1882.	As employed from miscellaneous appropriations.	Amounts.	CLASS. As estimated for, or recommended in the bill for 1883.	As estimated for 1883.	Amounts.	Recommended in bill for 1883.	Amounts.
Commissioner, clerks, assistant messengers, packers and laborers.	236	.....	$287,820	Commissioner, clerks, assistant messengers, packers and laborers.	281	$389,400	284	$360,400
Clerk, class one	.....	1	1,200	Clerk, class one	1	1,200	1	1,200
Copyists	.....	6	5,400	Copyists	6	5,400	6	5,400
Clerk, class three	.....	1	1,600	Clerks, class three	1	1,600	1	1,600
Clerks, class one	.....	7	8,400	Clerks, class one	7	8,400	7	8,400
Totals	236	15	304,420	Totals	296	406,000	299	377,000

INDIAN OFFICE.

Commissioners, clerks, messenger and assistant and laborers	64	.....	$82,780	Commissioner, clerks, messenger and assistant and laborers	72	$100,480	63	$82,320
Totals	64	.....	82,780	Totals	72	100,480	63	82,320

COMMISSIONER OF PATENTS.

Commissioner, examiners, clerks, messenger and assistants, attendants and laborers.	442	.....	$480,870	Commissioner, examiners, clerks, messenger and assistants, attendants and laborers.	495	$587,700	479	$548,800
Clerks at $1,000 each	.....	2	2,000	Clerks at $1,000 each	2	2,000	2	2,000
Copyists at $900 each	.....	6	5,400	Copyists at $900 each	6	5,400	6	5,400
Copyists at $720 each	.....	4	2,880	Copyists at $720 each	4	2,880	4	2,880
Totals	442	12	491,150	Totals	507	597,980	491	559,080

PENSION OFFICE.

Commissioner, deputies, clerks, and others	743	.....	$868, 530	Commissioner, deputies, clerks, and others	1, 559	$1, 957 150	1, 559	$1, 949, 150
Totals	743	.....	868, 530	Totals	1, 559	1, 957, 150	1, 559	1, 949, 150

BUREAU OF EDUCATION.

Commissioner, clerks, assistant messenger, laborers, and watchmen.	19	.....	$25, 380 00	Commissioner, clerks, assistant messenger, laborers, and watchmen.	47	$48, 100 00	37	$42, 180 00
Clerk	.....	1	2, 400 00					
Do	.....	1	1, 800 00					
Do	.....	1	1, 600 00					
Do	.....	1	1, 400 00					
Assistant messenger	.....	1	720 00					
Employé	.....	1	800 00					
Do	.....	1	660 00					
Do	.....	1	480 00					
Do	.....	1	360 00					
Totals	19	9	35, 600 00	Totals	47	48, 100 00	37	42, 180 00

COMMISSIONER OF RAILROADS.

Commissioner, bookkeepers, engineer, clerks, and assistant messenger.	7	.....	$14, 300 00	Commissioner, bookkeepers, engineer, clerks, and assistant messenger.	8	$16, 620 00	8	$16, 020 00
Totals	7	.....	14, 300 00	Totals	8	16, 620 00	8	16, 020 00

ARCHITECT OF THE CAPITOL.

Laborers and watchmen	11	.....	$7, 824 00	Laborers and watchmen	11	$7, 824 00	11	$7, 824 00
Architect	.....	1	4, 500 00	Architect	1	4, 500 00	1	4, 500 00
Clerk, class 4	.....	1	1, 800 00	Clerk, class 4	1	1, 800 00	1	1, 800 00
Draughtsman	.....	1	1, 800 00	Draughtsman	1	1, 800 00	1	1, 800 00
Compensation to disbursing clerk	.....	.....	1, 000 00	Compensation to disbursing clerk	.....	1, 000 00	.....	1, 000 00
Assistant messenger	.....	1	720 00	Assistant messenger	1	720 00	1	720 00
Totals	11	4	17, 644 00	Totals	15	17, 644 00	15	17, 644 00

Statement showing the number of employés, their grades and salaries, in the several executive departments, &c.—Continued.

GEOLOGICAL SURVEY.

CLASS. As now specifically appropriated for or employed.	As provided by specific appropriation for 1882.	As employed from miscellaneous appropriations.	Amounts.	CLASS. As estimated for, or recommended in the bill for 1883.	As estimated for 1883.	Amounts.	Recommended in bill for 1883.	Amounts.
Director, executive officer, clerks, and others	.....	30	$35,340 00	Director, executive officer, clerks, and others	30	$35,340 00	30	$34,340 00
Totals	.....	30	35,340 00	Totals	30	35,340 00	30	34,340 00

POST-OFFICE DEPARTMENT.

OFFICE OF THE POSTMASTER-GENERAL.

Postmaster-General, clerks, messenger, and assistant	12	.....	$24,170 00	Postmaster-General, clerks, messenger, and assistant	15	$28,470 00	14	$27,010 00
Totals	12	.....	24,170 00	Totals	15	28,470 00	14	27,010 00

OFFICE OF FIRST ASSISTANT POSTMASTER-GENERAL.

First Assistant Postmaster-General, clerks, and others	60	.....	$81,560 00	First Assistant Postmaster-General, clerks, and others	67	$95,010 00	66	$90,960 00
Totals	60	.....	81,560 00	Totals	67	95,010 00	66	90,960 00

OFFICE OF SECOND ASSISTANT POSTMASTER-GENERAL.

Second Assistant Postmaster-General, clerks, and others	83	.....	$121,000 00	Second Assistant Postmaster-General, clerks, and others	99	$145,870 00	94	$133,600 00
Totals	83	.....	121,000 00	Totals	99	145,870 00	94	133,600 00

OFFICE OF THIRD ASSISTANT POSTMASTER-GENERAL.

Third Assistant Postmaster-General, clerks, and others	172	.....	$204, 660 00	Third Assistant Postmaster-General, clerks, and others	182	$221, 460 00	180	$213, 860 00
Clerks, at $1,000 each	.....	3	3, 000 00	Clerks, at $1,000 each	3	3, 000 00	3	3, 000 00
Clerks, at $900 each	.....	6	5, 400 00	Clerks, at $900 each	6	5, 400 00	6	5, 400 00
Clerks, at $720 each	.....	6	4, 320 00	Clerks, at $720 each	6	4, 320 00	6	4, 320 00
Totals	172	15	217, 380 00	Totals	197	234, 180 00	195	226, 580 00

OFFICE SUPERINTENDENT FOREIGN MAILS.

Superintendent, clerks, and others	11	.....	$16, 920 00	Superintendent, clerks, and others	11	$17, 920 00	10	$15, 720 00
Totals	11	.....	16, 920 00	Totals	11	17, 920 00	10	15, 720 00

SUPERINTENDENT MONEY-ORDER SYSTEM.

Superintendent, clerks, and others	38	.....	$51, 200 00	Superintendent, clerks, and others	43	$59, 400 00	42	$56, 800 00
				Engineer, firemen, watchmen, and laborers, for service in new building.	17	12, 960 00	9	6, 520 00
Totals	38	.....	51, 200 00	Totals	60	72, 360 00	51	63, 320 00

OFFICE OF MAIL DEPREDATIONS.

Chief of division	1	.....	$2, 250 00	Chief clerk	1	$2, 000 00	1	$2, 000 00
Clerks	6	.....	7, 600 00	Clerks and assistant messenger	12	14, 920 00	11	13, 120 00
Clerk, class 1	.....	1	1, 200 00					
Copyist	.....	1	900 00					
Totals	7	2	11, 950 00	Totals	13	16, 920 00	12	15, 120 00

TOPOGRAPHER'S OFFICE.

Topographer	1	.....	$2, 500 00	Topographer	1	$2, 500 00	1	$2, 500 00
Clerks and others	.....	38	39, 880 00	Clerks and others	34	39, 780 00	35	39, 880 00
Totals	1	38	42, 380 00	Totals	35	42, 280 00	36	42, 380 00

OFFICE OF SUPERINTENDENT.

Superintendent, clerks, watchmen, laborers, and others	55	.....	$42, 880 00	Superintendent, clerks, watchmen, laborers, and others	60	$47, 360 00	57	$44, 320 00
Totals	55	.....	42, 880 00	Totals	60	47, 360 00	57	44, 320 00

Statement showing the number of employés, their grades and salaries, in the several executive departments, &c.—Continued.

DEPARTMENT OF JUSTICE.

CLASS. As now specially appropriated for or employed.	As provided by specific appropriation for 1882.	As employed from miscellaneous appropriations.	Amounts.	CLASS. As estimated for, or recommended in the bill for 1883.	As estimated for 1883.	Amounts.	Recommended in bill for 1883.	Amounts.
Attorney-General, assistants, clerks, and others	32	.....	$73,600 00	Attorney-General, assistants, clerks, and others	43	$88,520 00	42	$82,750 00
Assistant attorneys, at $3,000 each	.....	2	6,000 00	Assistant attorneys, at $3,000 each	2	6,000 00	2	6,000 00
Assistant attorneys, at $2,500 each	.....	3	7,500 00	Assistant attorneys, at $2,500 each	3	7,500 00	3	7,500 00
Assistant attorney, at $2,000	.....	1	2,000 00	Assistant attorneys, at $2,000 each	2	4,000 00	1	2,000 00
Clerk, class 1	.....	1	1,200 00	Clerk, class 1	1	1,200 00	1	1,200 00
Copyist	.....	1	900 00	Copyist	1	900 00	1	900 00
Assistant messenger	.....	1	720 00	Assistant messenger	1	720 00	1	720 00
Clerks, class 3	.....	2	3,200 00	Clerks, class 3	2	3,200 00	2	3,200 00
Clerk, class 2	.....	1	1,400 00	Clerk, class 2	1	1,400 00	1	1,400 00
Messenger	.....	1	840 00	Messenger	1	840 00	1	840 00
Totals	32	13	97,360 00	Totals	57	114,280 00	55	106,510 00

OFFICE SOLICITOR OF THE TREASURY.

Solicitor, clerks, and others	16	.....	$28,080 00	Solicitor, clerks, and others	16	$28,080 00	16	$28,080 00
Totals	16	.....	28,080 00	Totals	16	28,080 00	16	28,080 00

Recapitulation by Departments.

Departments.	Total number employed during 1882.	Number provided by specific appropriation for 1882.	Employed from miscellaneous appropriations.	Amounts.
State Department	97	95	2	$117,880 00
Treasury Department	2,351	2,104	247	2,910,951 25
War Department	1,238	877	361	1,418,840 07
Navy Department	202	122	80	201,356 50
Interior Department	1,712	1,630	82	1,986,124 00
Post-Office Department	494	439	55	606,940 00
Department of Justice	61	48	13	125,440 00
Total	6,155	5,315	840	7,367,531 82

Departments.	Estimates for 1883.	Amounts.	Recommended in bill for 1883.	Amounts.
State Department	102	$127,820 00	100	$121,650 00
Treasury Department	2,466	3,061,219 00	2,448	3,046,692 25
War Department	1,596	1,879,245 00	1,567	1,836,695 00
Navy Department	194	205,760 00	177	183,340 00
Interior Department	2,661	3,333,334 00	2,624	3,216,134 00
Post-Office Department	557	697,870 00	535	656,510 00
Department of Justice	73	142,360 00	71	134,590 00
Total	7,649	9,447,608 00	7,522	9,195,611 25

New legislation of an important nature is recommended in the bill as follows:

And hereafter no expense for printing exceeding $3,750, including printing laws, journals, bills, and necessary printing of the same nature, shall be incurred for any session of the legislature of any of the Territories.

* * * * * * *

And the provisions of section 5485 Revised Statutes shall be applicable to any person who shall violate the provisions of an act entitled "An act relating to claim agents and attorneys in pension cases," approved June 20, 1878.

* * * * * * *

And the Secretary of the Treasury is hereby authorized to sell as waste paper, or otherwise dispose of, the files of papers which have accumulated, or may hereafter accumulate, in the office of the Auditor of the Treasury for the Post-Office Department that are not needed in the transaction of current business and have no permanent value; and the proceeds of said sales he shall pay into the Treasury, and make report thereof to Congress.

* * * * * * *

SEC. 4. That no civil officer, clerk, draughtsman, copyist, messenger, assistant messenger, mechanic, watchman, laborer, or other employé shall hereafter be employed in any of the executive departments, or subordinate bureaus or officers thereof at the seat of government, except only at such rates and in such numbers, respectively, as may be specifically appropriated for by Congress for such clerical and other personal services for each fiscal year; and no civil officer, clerk, draughtsman, copyist, messenger, assistant messenger, mechanic, watchman, laborer, or other employé shall hereafter be employed at the seat of government in any other office, or be paid from any appropriation made for contingent expenses, or for any specific or general purpose, unless such employment is authorized and payment therefor specifically provided in the law granting the appropriation, and then only for services actually rendered in connection with and for the purposes of the appropriation from which payment is made; and section 172 of the Revised Statutes and all other laws and parts of laws inconsistent with the provisions of this act, and all laws and parts of laws authorizing the employment of officers, clerks, draughtsmen, copyists, messengers, assistant messengers, mechanics, watchmen, laborers, or other employés, at a different rate of pay or in excess of the numbers authorized by appropriations made by Congress, be, and they are hereby, repealed; and all details of civil officers, clerks, or other subordinate employés from places outside of the District of Columbia, for duty within the District of Columbia, except temporary details for duty connected with their respective offices, be, and are hereby, prohibited; and hereafter all moneys accruing from lapsed salaries, or from unused appropriations for salaries, shall be covered into the Treasury.

* * * * * * *

SEC. 5. That from and after the 1st day of July, 1882, and of each year thereafter, the Secretary of the Treasury shall cause all unexpended balances of permanent and indefinite appropriations for collecting the revenue from customs which shall have remained upon the books of the Treasury for two fiscal years, to be carried to the surplus fund and covered into the Treasury. And it shall be the duty of the Secretary of the Treasury to include in his next estimates to Congress, and annually thereafter, a statement specifying in detail the number and class of officers and employés of every grade and nature, with the rate of compensation to each, that may in his judgment be necessary to properly conduct the business of collecting the revenue at each port of entry in the United States, together with an estimate of the amounts required for contingent expenses of the service as cannot be otherwise specifically provided for.

* * * * * * *

SEC. 6. That the Secretary of War is directed to transfer all the records in the office of the Surgeon-General of the Army from which the evidence is furnished for the settlement of claims for invalid pensions, and also the clerks and others employed upon such records, to the office of the Adjutant-General of the Army, if in his judgment the work of furnishing such evidence will be facilitated, or the number of clerks employed upon such work can be materially reduced in number by such transfer. * * * That the north half of the east wing of the State, War, and Navy building, now occupied by the War Department, except the two rooms on the second story now occupied by the Secretary of War, and the fourth story and the attic of the south wing of the said building now occupied by the Department of State, shall be occupied by the War Department for the storage of records now stored in insecure rented buildings, and for clerical purposes connected with said records. That the partition wall separating the corridor of the fourth story of the east wing from the fourth story of the south wing of the State, War, and Navy building shall be removed, so as to afford easy access from one wing to the other on the fourth story of said building. That the occupancy

of the north half of the east wing, except the two rooms aforesaid, and of the fourth story and attic of the south wing of the State, War, and Navy building, by any portion of the War Department, shall cease on the completion and occupancy by the War Department of the west wing and the center wing of the said State, War, and Navy building; and that thereafter the north half of the east wing, and the fourth story and attic of the south wing of said building, shall be controlled and occupied by the Navy Department and the Department of State, respectively.

In reply to the following letters, subtantial copies of which were addressed to the heads of the several executive departments, the matter which is included herewith as an appendix to this report was, from time to time, received by the committee.

COMMITTEE ON APPROPRIATIONS,
HOUSE OF REPRESENTATIVES,
Washington, D. C., February 21, 1882.

SIR: By direction of the chairman of the Committee on Appropriations I have to request that you will, at your earliest convenience, have the goodness to cause him to be furnished with a statement which shall set forth in number, name, class or occupation, salary and wages or pay, information showing what officers, clerks, or other employés, are now in service in your department who are not specifically provided for and appropriated for, but are paid from appropriations made by the government which are not specifically made in the regular appropriation laws, or other laws in terms for such purpose, and, if any such, information as to what fund they are respectively paid from, and the amount paid each per year, month or day, and the authority for such payment.

Also a statement showing, in the same classification and description above indicated, what clerks are detailed under provisions of section 166 of the Revised Statutes, to which bureaus they were originally appointed, and to which detailed.

The chairman directs me to write that he has deemed it better to obtain the information sought in this way rather than by a resolution of the House, and doubts not that his opinion will be coincided in by the departments (to each of which a copy of this letter is addressed), and that they will cheerfully co-operate with the committee in furtherance of its intention to have appropriations specifically made whenever practicable, to which end this communication is written.

A portion of the information sought has been given in the reply of the departments to Senate resolution of May 19 last, but the committee desire to have a statement or exhibit giving simply an answer to the present inquiry.

Very respectfully,

ROBT. J. STEVENS,
Clerk Committee on Appropriations, House of Representatives.

Hon. CHARLES J. FOLGER,
Secretary of the Treasury.

MARCH 28, 1882.

SIR: By direction of the Committee on Appropriations, I have to request, referring to your letter of the 21st instant, a printed copy of which is herewith inclosed, that you will have the goodness to submit estimates for whatever portion of the force now in service in your department included in said letter, as is deemed absolutely necessary, and that these estimates shall exhibit a classification to conform to the plan of the estimates for 1883 already before the committee, and that the distribution of the force in the additional estimates shall be appropriately placed as in your judgment seems best.

The committee also request that in all cases where in any bureau of your department, under the provisions of section 3 of the act of August 15, 1876 (19 Stat. at L., p. 169), clerks of a lower grade than those provided for in the law are employed, you will, in the case of every such bureau, submit a statement showing in detail what force is allowed by law and what force is actually employed, and how you desire that tht appropriations for each of said bureaus shall be made for the fiscal year 1883, should said section 3 be repealed.

Very respectfully,

JAMES C. COURTS,
Assistant Clerk Committee on Appropriations, House of Representatives.

Hon. ROBERT T. LINCOLN,
Secretary of War.

APPENDIX.

DEPARTMENT OF STATE,
Washington, February 28, 1882.

SIR: I have the honor to acknowledge the receipt of the letter addressed to me on the 21st instant by order of the committee, and in answer thereto to say that there are in this department no officers, clerks, or other employés, who are not specifically provided for and appropriated for, but are paid by appropriations made by the government, which are not specifically made in the regular appropriation laws, or other laws, in terms for such purpose, unless the following shall be held to come within that description, viz:

Paid from the appropriation for "contingent expenses, Department of State." Miscellaneous items: J. D. Townley, plumber; M. Durkin, extra laborer; R. H. Wilkinson, extra laborer; Ralph Singleton, extra laborer; John Baltimore, extra watchman.

Paid from the appropriation for "packing the laws," &c.: Albert M. Noyes, packer.

And that there are no clerks in this department detailed under the provisions of section 166 of the Revised Statutes.

I have the honor to be, sir, your obedient servant,

FRED'K T. FRELINGHUYSEN.

Hon. FRANK HISCOCK,
Chairman of the Committee on Appropriations, House of Representatives.

DEPARTMENT OF JUSTICE,
Washington, February 23, 1882.

SIR: Complying with the request of your committee, dated the 21st instant, I have the honor to inclose for your information a statement showing the number, name, class or occupation, salary or pay of all officers, clerks, or other employés of the Department of Justice not specifically provided for and appropriated for, as well as the acts of Congress by authoriry of which they are employed and paid.

Very respectfully, your obedient servant,

BENJAMIN HARRIS BREWSTER,
Attorney-General.

Hon. FRANK HISCOCK,
Chairman Committee on Appropriations, House of Representatives.

List of officers, clerks, and other employés of the Department of Justice not specifically provided for by appropriation.

Name.	Occupation or class.	Salary.	Authority.
J. S. Blair	Assistant, Court of Claims	$4,000 per annum	Defense claims against United States, act March 3, 1881.
A. D. Robinson	do	$3,000 per annum	Do.
G. C. Wing	do	$2,500 per annum	Do.
F. J. Lippitt	do	$2,500 per annum	Do.
J. C. Fay	do	$2,500 per annum	Do.
I. S. Lyon	do	$2,000 per annum	Do.
T. H. Wright	Clerk	$100 per month	Do.
H. N. Ralston	Copyist	$900 per annum	Do.
T. H. Barlow	Assistant messenger	$720 per annum	Do.
B. Cameron	General agent	$3,750 and traveling expenses.	Prosecution of crimes, act March 3, 1881.
A. B. Newcomb	Special agent	$2,190 and traveling expenses.	Do.
C. E. Woods	Clerk	$1,200 per annum	Do.
G. H. Moore	do	$1,500 per annum, temporary.	Do.
W. Haight	Collecting criminal statistics	$1,200 per annum	Support of convicts, act March 3, 1881.
Charles Lee	Driver	$720 per annum	Contingent expenses.
Z. L. Tidball	Special agent	$2,500 per annum	Prosecution of crimes, act March, 1881.
J. W. Bowman	do	$1,200 per annum	Do.

POST-OFFICE DEPARTMENT,
Washington, D. C., March 4, 1882.

SIR: In reply to your letter of the 21st February, I have the honor to state, for the information of the Committee on Appropriations, that the table marked A contains a list of the employés in the office of the topographer of the Post-Office Department. They are paid out of the sum of $50,000 appropriated for that purpose in the post-office appropriation bill.

In this connection it is proper to say that for the ensuing year these employés have been estimated for specifically in the executive, legislative, and judicial appropriation bill.

Table B contains a list of the employés paid out of what is known as the "temporary" and "lapse" funds. With the exception of the people paid out of the railway mail-service fund, these two lists embrace all the employés in this department who are not specifically appropriated for.

In response to the second paragraph of your letter, I have to say that table C contains, so far as the records of this department show, a list of all clerks who were appointed to one office and are at present employed in another.

I have omitted to send a list of the employés paid out of the railway mail-service fund.

In your letter to the chief clerk of this department, dated March 3, you stated that the enumeration of such officers and clerks was not asked for.

Very respectfully,

T. O. HOWE,
Postmaster-General.

Col. ROBERT J. STEVENS,
Clerk Committee on Appropriations, House of Representatives.

A.

Name.	Class.	Annual compensation.	Office.
Charles E. Gorham	Draughtsman	$1,800	Office of the topographer.
A. F. Dinsmore	do	1,800	Do.
William B. Todd	do	1,600	Do.
Lewis R. Taylor	do	1,600	Do.
James M. Borden	do	1,600	Do.
C. Clarance Poole	do	1,400	Do.
Paul Kuhnel	do	1,400	Do.
Stillman McCathran	do	1,200	Do.
Anton Coe	do	1,200	Do.
John W. Morgan	Map mounter	1,200	Do.
Miss Rita Howard	Corresponding clerk	1,200	Do.
Mrs. S. B. Cushing	Map colorist	1,200	Do.
Miss Pauline Kilp	do	1,200	Do.
Mrs. Mary Hitz	do	1,000	Do.
Miss M. E. Stabler	do	1,000	Do.
Miss Etta B. Eakle	do	1,000	Do.
Miss Ella Keene	do	900	Do.
Miss J. H. Rossiter	do	900	Do.
Mrs. E. R. Compton	do	900	Do.
Mrs. M. V. Benkert	do	900	Do.
Miss J. W. Tannahill	do	900	Do.
Miss Mary Kramer	do	900	Do.
Miss S. H. Whittlesey	do	900	Do.
Miss Mamie Leary	do	900	Do.
Mrs. Kate E. Parker	do	900	Do.
Mrs. Lily W. Foster	Temporary clerk	900	Do.
Miss Emma J. Lindsey	do	900	Do.
Miss Anne S. Peddicord	do	900	Do.
Miss E. M. Fuller	do	900	Do.
Mrs. Jane A. Converse	do	900	Do.
Miss Agnes P. Otis	do	900	Do.
Miss Kate Birrane	do	900	Do.
Mrs. Imogene H. Sykes	do	900	Do.
George H. Morgan	Assistant map mounter	720	Do.
Alfred Lowry	Watchman (night)	720	Do.
R. N. C. Riker	Messenger	720	Do.
Henry C. Smith	Watchman (day)	660	Do.
Charles Milligan	Messenger	360	Do.

B.

Name.	Class.	Annual compensation.	Office.
Charles H. Laird	Temporary clerk	$900	Third Assistant Postmaster-General.
Mrs. Mary Mumford	do	600	Do.
Miss Ellen D. Patton	do	900	Do.
Miss Annie Eckbert	do	600	Do.
Miss Bethia Gittings	do	600	Do.
A. B. Hurlbut	do	900	Do.
Miss J. N. Hunt	do	600	Do.
Mrs. Marie Ginesi	do	900	Do.
Mrs. A. W. Sabine	do	600	Do.
Mrs. Pauline Gordon	do	900	Do.
Mrs. Mary E. Berrian	do	720	Do.
Miss Allie G. Jones	do	720	Division of Mail Depredations.
Miss Emily Vincent	do	900	Third Assistant Postmaster-General.
F. W. Edmonds	do	1,000	Superintendent Money-Order System.
Miss Jennie W. Irwin	do	720	Third Assistant Postmaster-General.
N. T. Miller	do	1,200	Division of Mail Depredations.
Mrs. Julia C. McKelden	do	720	Third Assistant Postmaster-General.
Miss Annie T. Gordon	do	600	Do.
James Ross	Temporary laborer	480	Do.
George Henderson	Temporary fireman	720	Disbursing Clerk and Superintendent.
George McLaine	Temporary laborer	660	Do.
Bert M. Stoddard	do	660	Second Assistant Postmaster-General.
Richard J. Ferriss	Temporary messenger	600	Office of the Postmaster-General.
Frank D. Hester	do	600	Do.

C.

Name.	Class.	Annual salary.	Office to which appointed.	Office where employed.
Beckley, Rosier D	Clerk of class one.	$1,200 00	Office of the Superintendent of Foreign Mails.	Office of First Assistant Postmaster-General.
Birckhead, James R	do	1,200 00	Office of the First Assistant Postmaster-General.	Office of Superintendent and Disbursing Clerk.
De Ronceray, Alfred	Clerk of class 1,000.	1,000 00	do	Office of Second Assistant Postmaster-General.
Gould, Ashley M	Clerk of class one.	1,200 00	Office of Superintendent Money-Order System.	Office of Mail Depredations.
Lightfoot, Henry	Regular laborer	660 00	Office of First Assistant Postmaster-General.	Office of Superintendent and Disbursing Clerk.
Powell, William H	Clerk of class two.	1,400 00	do	Office of Superintendent Railway Mail Service.
Ross, James	Regular laborer	660 00	do	Office of Third Assistant Postmaster-General.

NAVY DEPARTMENT,
Washington, February 24, 1882.

SIR: I have the honor to acknowledge the receipt of your letter of the 21st instant, requesting a statement of the temporary clerks, &c., employed in this department, giving their names, occupation, salary, appropriation from which paid, and authority for such payment.

I inclose herewith a detailed statement giving the desired information so far as the department is able to do so. In the cases of the watchmen who are paid from the appropriations coming under the cognizance of the various bureaus, it is proper to state that before the department moved from the old building into the new quarters, the number of watchmen then allowed by law was insufficient for the care of the building and its protection against fire, from which cause, on several occasions, it came very near being entirely destroyed.

Upon removal into the new building it was found that the present force was absolutely necessary for the protection of the public property in it and in the old building, which is still occupied.

I also inclose a statement showing the number of clerks borne on the rolls of the Bureau of Provisions and Clothing and employed in the office of the Secretary of the Navy and the Bureau of Equipment and Recruiting, as authorized by section 166 of the Revised Statutes.

The distribution of these clerks was found to be necessary and proper for the better dispatch of the public business.

Estimates for the librarian, assistant librarian, and two clerks of the second class in the office of Secretary of the Navy have been submitted with those for the clerical force of the department for the next fiscal year, and are included in the book of estimates prepared by the Secretary of the Treasury.

Very respectfully, your obedient servant,

WILLIAM H. HUNT,
Secretary of the Navy.

Hon. FRANK HISCOCK,
Chairman of Committee on Appropriations, House of Representatives.

Statement of clerks in Navy Department borne on roll of one bureau and detailed to another, appropriated for under Bureau of Provisions and Clothing.

Name.	Grade of office.	Salary.
M. S. Thompson	Second-class clerk	$1,400 00
A. T. Jenckes	First-class clerk	1,200 00
Detailed to and employed in Secretary's Office.		
M. S. Thompson	Second-class clerk	1,400 00
To Bureau of Equipment and Recruiting.		
A. T. Jenckes	First-class clerk	1,200 00

List of temporary employés in the Navy Department.

Name.	Occupation.	Where employed.	Fund from which paid.	Salary.	Authority.
R. B. Porter	Clerk to inspection board.	Office of Admiral of Navy, Washington.	Contingent, Navy	$125 per month	Naval appropriation act, approved February 23, 1881 (inspection board).
J. C. Dulin	Clerk to examining board.	Navy Department	do	$117 per month	Naval appropriation act, approved February 23, 1881 (examining board).
William Wirt	Clerk to board on rebellion record.	do	do	$100 per month	Naval appropriation act, approved February 23, 1881 (copying and recording).
W. R. Browne	Librarian	do	do	$110 per month	Naval appropriation act, approved February 23, 1881 (care of library).
John E. Trudeau	Assistant librarian	do	do	$75 per month	Do.
Antonio Biondi	Cleaning	do	do	$60 per month	Do.
J. De Bru Higgins	Copying and recording	Navy Department, office of detail.	do	$100 per month	Naval appropriation act, approved February 23, 1881 (copying and recording).
Halleck Donoho	do	Judge-Advocate's office, Navy Department.	do	$100 per month	Do.
John C. Hunter	do	do	do	$100 per month	Do.
J. S. Bohrer, jr	do	do	do	$60 per month	Do.
J. H. Kirkwood	do	Secretary's office, Navy Department.	do	$100 per month	Do.
W. R. Handy	do	do	do	$100 per month	Do.
Rufus Prentice	do	do	do	$90 per month	Do.
R. D. Mohun	do	do	do	$60 per month	Do.
Mrs. M. Thompson	Telegraph operator	Navy Department	do	$83.33 per month	Naval appropriation act, approved February 23, 1881 (telegraphing).
W. C. Mason	Messenger, telegraph office.	do	do	$20 per month	Do.
Miss Hattie E. Phelps	Copying and recording	Bureau of Navigation	do	$60 per month	Naval appropriation act, approved February 23, 1881 (copying and recording).
William Wilkes	Messenger to inspection board.	Office of Admiral	do	$55 per month	Naval appropriation act, approved February 23, 1881 (inspection board).
Charles Watts	Messenger to examining board.	Navy Department	do	$55 per month	Naval appropriation act, approved February 23, 1881 (examining board).
Samuel Johnson	Messenger to Judge-Advocate.	do	do	$50 per month	Naval appropriation act, approved February 23, 1881 (expenses of courts-martial).
Henry Dorkins	Laborer	do	do	$55 per month	
Philip Hart	do	do	do	$55 per month	
Telemachus Ford	do	do	do	$50 per month	
William F. Thomas	do	do	do	$50 per month	
E. S. Cassin	Messenger, Secretary's office.	do	do	$35 per month	
Margaret Goldsmith	In charge cleaners, &c	do	do	$25 per month	
Mrs. H. B. Bates	Copying and recording	Secretary's office, Navy Department.	do	$60 per month	Naval appropriation act, approved February 23, 1881 (copying and recording); also section 121 Revised Statutes, answering calls from Congress.
Mrs. M. E. Boden	do	do	do	$60 per month	Do.

List of temporary employés in the Navy Department—Continued.

Name.	Occupation.	Where employed.	Fund from which paid.	Salary.	Authority.
Mrs. A. B. Munroe	Copying and recording	Secretary's office, Navy Department.	Contingent, Navy	$60 per month	Naval appropriation act, approved February 23, 1881 (copying and recording); also section 171 Revised Statutes, answering calls from Congress.
Mrs. M. Wysong	do	do	do	$60 per month	Do.
Mrs. F. M. Blair	do	do	do	$60 per month	Do.
Mrs. S. A. Shelby	do	do	do	$60 per month	Do.
Mrs. E. Call Long	do	do	do	$60 per month	Do.
Miss S. Culbertson	do	do	do	$60 per month	Do.
Miss F. Cunningham	do	do	do	$60 per month	Do.
Miss M. Bleecker	do	do	do	$60 per month	Do.
Miss M. A. May	do	do	do	$60 per month	Do.
Miss M. A. Austin	do	do	do	$60 per month	Do.
Joseph Waters	Printing	Navy Department	do	Av., $21 per month	Do.
J. R. Boss	do	do	do	$3.20 per day	Do.
Edmund Shaw	do	do	do	$45 per month	Do.
W. B. Darrell	In charge of elevator	do	do	$41.66 per month	Do.
Lewis Patton	Laborer	do	do	$55 per month	Do.
James Burke	do	do	Contingent, Navy Department building.	$55 per month	Appropriation act of March 3, 1881 (legislative, executive, and judicial).
Noble Snowden	do	do	do	$55 per month	Do.
Emma High	Cleaning, &c	do	do	$15 per month	Do.
Margaret Purcell	do	do	do	$15 per month	Do.
Mary Finnacum	do	do	do	$15 per month	Do.
Delia Robinson	do	do	do	$15 per month	Do.
M. J. Matthews	do	do	do	$15 per month	Do.
BUREAU OF YARDS AND DOCKS.					
Frank H. Case	Writer	Navy Department	Maintenance, Yards and Docks.	$83.33 per month	
H. O. French	Carpenter	do	do	$90 per month	
Andrew O'Neill	Watchman	do	do	$60 per month	
P. T. McCurdy	do	do	do	$60 per month	
Harriet Warren	Scrubber	do	do	$15 per month	
Minnie Holmes	do	do	do	$15 per month	
BUREAU OF EQUIPMENT AND RECRUITING.					
J. B. Harrison	Captain of the watch	Navy Department	Contingent, Equipment and Recruiting.	$100 per month	
F. A. Wilson	Copying recruiting records	do	do	$100 per month	Appropriation contingent equipment and recruiting (expenses of recruiting).
Mrs. E. C. W. Chubb	do	Washington	do	$75 per month	Do.

BUREAU OF NAVIGATION.					
Henry W. Wells	Clerk	Signal Office	Pay, miscellaneous	$125 per month	
John H. Brooks	Writer	Navy Department	Appropriation, Navigation	$3.25 per diem	
James T. Jackson	Laborer	do	do	$55 per month	
J. L. Lipscomb	Watchman	do	do	$60 per month	
BUREAU OF ORDNANCE.					
P. Quirk	Watchman	Navy Department	Appropriation, Ordnance, 1882.	$60 per month	
J. M. Waters	Laborer	do	do	$55 per month	
BUREAU OF CONSTRUCTION AND REPAIR.					
J. H. Reinburg	Second captain of the watch.	Navy Department	Construction and Repair, 1882.	$75 per month	
BUREAU OF STEAM ENGINEERING.					
James M. Durant	Clerk	Navy Department	Steam Machinery	$3.25 per diem	
J. R. Knox	Watchman	do	do	$60 per month	
J. P. Donnelly	do	do	do	$60 per month	
BUREAU OF PROVISIONS AND CLOTHING.					
W. S. Gibson	On work of bureau—settling pay officers' accounts.	Navy Department	Provisions	$100 per month	
Miss M. M. Heath	do	Washington	do	$75 per month	
Mrs. A. B. Bromwell	Indexing records of bureau	do	Contingent, Provisions and Clothing.	$75 per month	Approved February 23, 1881. (Incidental expenses.)
James Boyce	Watchman	Navy Department	Provisions	$60 per month	
L. R. Jones	do	do	do	$60 per month	
John Fagins	Laborer	do	do	$30 per month	
Benjamin Wade	do	do	do	$25 per month	
BUREAU OF MEDICINE AND SURGERY.					
James Minor	Janitor	Medical Board (Naval Dispensary).	Contingent, Medicine and Surgery.	$50 per month	Appropriation—act February 23, 1881.
John Bundner	Laborer	Naval Dispensary	Civil Establishment	$40 per month	Do.
George E. Doering	Assistant chemist	do	do	$40 per month	Do.
Thomas J. Barclay	Watchman	Old Navy Department	Contingent, Medicine and Surgery.	$60 per month	

OFFICE OF PUBLIC PRINTER,
Washington, March 7, 1882.

SIR: In reply to the letter of inquiry from the clerk of the Committee on Appropriations, dated March 4, 1882, I beg leave to make the following statements and suggestions:

The "Office of the Public Printer," as provided for in the legislative appropriation act, is for the following-named force and the salaries paid:

Public Printer	$3,600
Chief clerk	2,000
3 clerks of class 4 (one of whom is disbursing clerk)	5,400
1 clerk of class 2	1,400
1 clerk of class 1, for Congressional Record	1,200
Total	13,600

In addition to the above force there are employed in the "Office of the Public Printer" (and they are actually necessary to carry on the legitimate business of the office) and paid for out of the appropriation for printing and binding, the following-named persons:

W. H. Collins (accounts, &c.), act of June 20, 1878	$1,600 00
M. W. Mitchell (estimates), at $4 per day	1,252 00
A. A. Allison (estimates), at $4 per day	1,252 00
M. W. Chollar (assistant to disbursing clerk), at $4 per day	1,252 00
D. Nicholson (telegraph operator), at $4 per day	1,252 00
I. P. Berthrong (telephone operator), at $4 per day	1,252 00
W. H. Smith (in charge of Record in Senate lobby), at $3.20 per day	1,001 60
A. S. Defrees (messenger to Public Printer), at $3.20 per day	1,001 60
H. K. Collins (recording clerk), at $3 per day	939 00
James Craerin (messenger), at $2 per day	626 00
John Butcher (messenger), at $2 per day	626 00
Total	12,094 20

Making the total disbursements for service rendered in the office of the Public Printer $25,694.20.

In my opinion these should all be provided for in the appropriation for the Public Printer and his clerks, with the following increases, and my reasons therefor:

Salary of the Public Printer	$5,000 00
Chief clerk	2,500 00
1 disbursing clerk	2,250 00
2 clerks of class 4	3,600 00
2 clerks of class 3	3,200 00
3 clerks of class 2	4,200 00
5 clerks of class 1 (2 clerks for Congressional Record, 1 stenographer, 1 telegraph operator, and 1 telephoner)	6,000 00
1 clerk at $1,000 per annum	1,000 00
1 messenger	900 00
1 laborer	840 00
Total	29,490 00

An increase over the amount now paid of $3,796.80.

The bulk of this increase, however, is in the additional compensation asked for for the Public Printer, the chief clerk, and the disbursing officer.

When the office of Public, then Congressional, Printer was first established the salary was fixed at $4,000 per annum, and he was required to give a bond in the sum of $80,000. At this time the disbursements reached about $1,000,000 per annum, and the office was less than one-fourth its present size, and only employed about five hundred people.

In 1876, "*in the interests of economy,*" the salary was *reduced* to $3,600 per annum and the bond *increased* to $100,000.

The Public Printer now disburses over $2,000,000 per annum, employs over 2,000 people, and the office is over four times as large as when first established; and as a simple act of justice the salary should be on a par with positions of like trust and responsibility, and placed at least at $5,000 per annum.

The Chief Clerk, like the Public Printer, should "be a practical printer and versed in the art of bookbinding." The duties are very onerous, for the executive work of the establishment devolves on this officer. At present the salary is $2,000 per annum, while subordinate positions, those of Foreman of Printing and Foreman of Binding, each receive an annual compensation fixed by law of $2,100. The Chief Clerk should get $2,500.

The present disbursing clerk has filled the position for 21 years. He is not a bonded officer—the Public Printer being responsible for all moneys disbursed. But as the disbursing clerk makes good any loss, disbursing as he does nearly $200,000 per month, he should receive the same compensation as like positions in the executive departments, namely, $2,250 per annum.

When Congress sent the Congressional Record to the Government Printing Office it provided for one clerk of class one to keep the accounts. In addition to this clerk we have found it necessary to keep an additional clerk at the Capitol, and during night sessions receives no extra compensation. During the time Congress is not in session he assists in the office. He should be made one of the first class clerks included in my estimate of five.

Hoping that the information contained in the foregoing statements are in compliance with the letter of inquiry, and that the suggestions will meet with favorable consideration,

I am, sir, yours respectfully,

A. F. CHILDS,
Chief Clerk.

Hon. FRANK HISCOCK,
Chairman Committee on Appropriations, House of Representatives.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., March 8, 1882.

SIR: I have to acknowledge the receipt of your letter of the 21st ultimo, asking to be furnished, for the use of the chairman of the Committee on Appropriations, with a statement which shall set forth in number, names, class or occupation, salaries and wages or pay, information showing what officers, clerks or other employés are now in service in this department, who are not specifically provided and appropriated for, but are paid from appropriations made by the government which are not specifically made in the regular appropriation laws, or other laws in terms for such purpose, and if any such, information as to what fund they are respectively paid from, and the amount paid each per year, month, or day, and the authority for such employment. Also, a statement showing what clerks are detailed under the provisons of section 166 Revised Statues, to which bureaus they were appointed and to what detailed.

In reply, I have to state that I transmit herewith a statement setting forth in detail the information above requested, so far as relates to the department in Washington, with the exception of the Bureau of Engraving and Printing, a statement covering which is now being prepared, but owing to the large number of employés therein, who are paid from appropriations in bulk, it will require from a week to ten days to complete it. As soon as completed the statement will be transmitted.

The information concerning other employés of this department employed outside of Washington is also being prepared and will be forwarded at the earliest date practicable.

Very respectfully,

CHAS. J. FOLGER,
Secretary.

Mr. ROBERT J. STEVENS,
Clerk to Committee on Appropriations, House of Representatives.

Employés in Treasury Department not specifically provided for in the appropriation laws

No.	Office and name.	Salary.	Grade or occupation.	Paid from appropriation for—	Authority and remarks
	SECRETARY'S.				
	Division of Warrants, Estimates and Appropriations.				
1	Bowen, Ervin W	$1,400 00	Clerk	Preparation of receipts, expenditures, and appropriations.	Authority—Letter Secretary May 11, 1881
2	Lloyd, De Los	1,200 00	do	do	Authority—Letter Secretary Oct. 31, 1881.
3	Ramsdall, Clara R	900 00	do	do	Authority—Letter Secretary Mar. 9, 1881.
4	Kirkwood, Rebecca E	900 00	do	do	Authority—Letter Secretary May 7, 1881.
5	Hurlburd, Rebecca C	*75 00	do	do	Authority—Letter Secretary Oct. 4, 1881.
6	Kerstine, Robert C	720 00	Asst. messenger	do	Authority—Letter Secretary Jan. 15, 1881.
7	McElhinny, David E	660 00	Laborer	do	Authority—Letter Secretary Feb. 18, 1881
	Division of Stationery, Printing, and Blanks.				
1	Kimball, E. S	†8 00	Clerk	Collecting revenue from customs.	Section 2646 R. S. and letters of the Secretary of the Treasury
2	Foster, Daniel S	1,800 00	Clerk fourth class	do	Do.
3	Gatley, William A	1,800 00	do	do	Do.
4	Shepard, H. L	1,800 00	do	do	Do.
5	Taylor, R. B	1,800 00	do	do	Do.
6	Bickford, W. C	1,600 00	Clerk third class	do	Do.
7	Hall, James T	1,600 00	do	do	Do.
8	Spencer, B. F	1,400 00	Clerk second class	do	Do.
9	Young, F. J	1,400 00	do	do	Do.
10	Clark, George L	1,200 00	Clerk first class	do	Do.
11	Goodwin, E. A	1,200 00	do	do	Do.
12	Johnson, F. E	1,200 00	do	do	Do.
13	Smith, Charles H	1,200 00	do	do	Do.
14	Butler, George W	840 00	Messenger	do	Do.
15	Davidge, Richard W	840 00	do	do	Do.
16	Henderson, Richard	720 00	Asst. messenger	do	Do.
17	Hubburd, Edward	840 00	Messenger	do	Do.
18	Ritner, William D	720 00	Asst. messenger	do	Do.
1	Sessford, Andrew	1,565 00	Binder	Contingent expenses Treasury Department.	Section 3787 R. S. and act Mar. 3, 1881.
2	Martin, James	†4 00	do	do	Do.
3	Sessford, Winfield S	†4 00	do	do	Do.
4	Paul, Jennings	†4 00	do	do	Do.
5	Emanuel, Minich	†2 50	do	do	Do.
6	Dowling, Frank	†4 00	do	do	Do.
	Division of Internal Revenue and Navigation.				
	Richardson, John A	‡5 00	Clerk	Collecting revenue from customs.	Section 2746 R. S. and letter Secretary Treasury Aug. 18, 1880.
	Division of Captured and Abandoned Property.				
1	Noerr, Martin L	2,750 00	Examiner of archives and records.	Examination of captured and abandoned property.	Sundry civil act. Mar. 3, 1881, and letter Secretary, July 2, 1880
2	Fessenden, William	1,800 00	do	do	Sundry civil act. Mar. 3, 1881, and letter Secretary Aug. 1, 1877
1	Knox, Samuel	1,600 00	Examiner of titles and lands.	For custody, care, and protection of lands, &c.	Sundry civil act. Mar. 3, 1881, and letter Secretary Mar. 14, 188
2	Suman, John J	1,400 00	Examiner of records and clerk.	do	Sundry civil act. Mar. 3, 1881, and letter Secretary Dec. 4, 1880.
3	Frisby, Mrs. M. M	660 00	Laborer	do	Act Mar. 3, 1881, and letter of Secretary Feb. 23, 1882.
	Millar, Mrs. C. V	660 00	do	do	Do.

* Per month. † Per day. ‡ Holidays and Sundays excepted.

Employés in the Treasury Department not specifically provided for, &c.—Continued.

No.	Office and name.	Salary.	Grade or occupation.	Paid from appropriation for—	Authority and remarks.
	SECRET SERVICE DIVISION.				
1	Brooks, James J	3,500 00	Chief	Suppressing counterfeiting and other crimes.	Act of March 3, 1881.
2	Gage, Roscoe W	2,000 00	Chief clerk	do	Do.
3	Cowie, John G	1,800 00	Finance clerk	do	Do.
4	Harman, L. D	1,400 00	Record clerk	do	Do.
5	Rock, George A	1,400 00	Custodian	do	Do.
6	Douglas, H. J	1,400 00	Clerk second class	do	Do.
7	Miller, Charles	1,100 00	Index clerk	do	Do.
8	Abbott, E. A	*5 00	Operative	do	Do.
9	Bauer, M. G	*5 00	do	do	Do.
10	Burnett, H. M	*4 00	do	do	Do.
11	Drummond, A. L	*7 00	do	do	Do.
12	Finnegass, Henry	*6 00	do	do	Do.
13	Gilkinson, D. H	*6 00	do	do	Do.
14	Hall, Wallace H	*5 00	do	do	Do.
15	McIlrath, James P	*5 00	do	do	Do.
16	Perkins, G. B	*6 00	do	do	Do.
17	Rathbone, E. G	*7 00	do	do	Do.
18	Stedman, E. M	*5 00	do	do	Do.
19	Scanlon, James J	*5 00	do	do	Do.
20	Tywell, P. D	*6 00	do	do	Do.
21	Van Horn, M. D	*5 00	do	do	Do.
22	Wild, A. F	*5 00	do	do	Do.
23		*4 00	Ass't operative	do	Do.
24		*4 00	do	do	Do.
25		*4 00	do	do	Do.
26		*3 00	do	do	Do.
27		*3 00	do	do	Do.
28		*3 00	do	do	Do.
29		*3 00	do	do	Do.
30		*2 50	do	do	Do.
31		*2 00	do	do	Do.
32		*2 00	do	do	Do.
33		†20 00	Boy	do	Do.
34		†20 00	do	do	Do.

* Per day. † Per month.

The persons enrolled as assistant operatives are appointed from time to time, as emergencies arise, by the chief of the division, and their compensation is also fixed by the chief, with the concurrence of the Solicitor of the Treasury. These sub-agents bear no commission and carry no document or badge to show that they are in any manner connected with the United States Government, for the reason that they have to consort with the criminal classes, and should their true character be known their work would fail and their lives jeopardized. Their names appear on the secret archives of this office, and can be seen by any person duly authorized to inspect our records.

For the above reasons I have given their number and pay, leaving a blank in lieu of their names. If it is not the purpose of the Committee on Appropriations to publish names, I can see no objection in submitting their names to that committee, as I did recently to a subcommittee of the Senate on investigation of expenditures in the Treasury Department. But if it is designed to make public all names given to said committee, then in the interest of good government and humanity I earnestly entreat you to sustain this office in withholding the names. The duties of these assistant operatives expose them to numerous hardships and great dangers, and so far as may be consistent with the best public policy they should receive protection. Since my connection with the service four of this class have been murdered. (Extract from letter of Chief of Secret Service.)

List of persons employed in the paper room, Secretary's Office, in the examination, counting, and delivery of paper, and paid from the appropriation "Distinctive paper for United States notes," act March 3, 1881.*

No.	Name.	Occupation.	Compensation.
1	J. N. Burket	Superintendent	$5 00 per diem.†
2	Thomas D. Divine	Paper cutter	3 00 per diem.†
3	Emily Henry	Expert counter	2 25 per diem.†
4	Abram Ackwith	Laborer	2 00 per diem.†
5	Charles B. Fisher	do	2 00 per diem.†
6	Henry Gant	do	2 00 per diem.†
7	Henry Hopkins	do	2 00 per diem.†
8	William Richardson	do	2 00 per diem.†
9	Frances S. Backus	Counter	2 00 per diem.†
10	Bettie B. Bartlett	do	2 00 per diem.†
11	Elizabeth Burke	do	2 00 per diem.†
12	Helen Callan	do	2 00 per diem.†
13	Catherine Hazlett	do	2 00 per diem.†
14	Jemina M. Holton	do	2 00 per diem.†
15	Esther F. Jeffries	do	2 00 per diem.†
16	Hattie F. Jones	do	2 00 per diem.†
17	Florence R. Kelly	do	2 00 per diem.†
18	Lucretia Kleiber	do	2 00 per diem.†
19	Laura G. Mason	do	2 00 per diem.†
20	Sarah Morrison	do	2 00 per diem.†
21	Ida McKenna	do	2 00 per diem.†
22	Florence Oakes	do	2 00 per diem.†
23	Ida M. O'Donnell	do	2 00 per diem.†
24	Louise Parlin	do	2 00 per diem.†
25	Kate G. Parsons	do	2 00 per diem.†
26	J. R. Rawlings	do	2 00 per diem.†
27	Rose Robinson	do	2 00 per diem.†
28	Iola Rodier	do	2 00 per diem.†
29	Emeline S. West	do	2 00 per diem.†
30	R. A. Yarnell	do	2 00 per diem.†
31	Sarah Carter	do	2 00 per diem.†

* The appropriation is reimbursed for one-third of the expenses from the appropriation "Expenses national currency," and one-third from the appropriation for "paper, stamps, and dies."
† When employed.

List of persons employed in the government mill at Dalton, Mass., in superintending, guarding, receiving, counting, and examining paper, and paid from the appropriation "Distinctive paper for United States notes," act March 3, 1881.

No.	Name.	Occupation.	Compensation.
1	William H. Higdon	Superintendent	$5 00 per diem.*
2	William H. Tourtellot	Captain of the watch	3 00 per diem.
3	Nathaniel Morris	Register	3 00 per diem.†
4	Levi L. Aldrich	Watchman	720 00 per annum.
5	John Schwartz	do	720 00 per annum.
6	Chester B Scudder	do	720 00 per annum.
7	Henry Zell	do	720 00 per annum.
8	Lewis Alexander	Laborer	660 00 per annum.
9	Marie J. Blaisdell	Counter and examiner	900 00 per annum.
10	Cynthia E. Bradford	do	900 00 per annum.
11	Ida G. Carson	do	900 00 per annum.
12	Sallie M. Cartwright	do	900 00 per annum.
13	Mary E. Emery	do	900 00 per annum.
14	Sarah E. Griswold	do	900 00 per annum.
15	Marian Robinson	do	900 00 per annum.
16	Nettie Shaw	do	900 00 per annum.
17	A. E. Sommers	do	900 00 per annum.
18	Emily F. Tyler	do	900 00 per annum.

* And actual expenses. When employed.

f employés in office of superintendent, paid from appropriations other than those specifically provided for in regular salary appropriations.

and appropriation om which paid.	Grade.	Compensation.	Authority.
, lights, and water.			
Andrews	Clerk	$6 per diem	Appropriation fuel, lights, and water for public buildings.
Sanford	do	$5 per diem	Do.
s R. Hyde	do	$4 per diem	Do.
Macgregor	do	$4 per diem	Do.
Harris	do	$1,400 per annum	Do.
Fassett	do	$1,200 per annum	Do.
Skeen	Foreman of laborers.	$1,200 per annum	Do.
Lyons	Clerk	$3 per diem	Do.
dcElhone	do	$75 per month	Do.
iture, and repairs of.			
Hessler	Foreman cabinet shop.	$5 per diem	Appropriation furniture and repairs of furniture for public buildings.
Degges	Special furniture inspector.	$5 per diem	Do.
N. Dwyer	Draughtsman	$4 per diem	Do.
Judge	Clerk	$1,000 per annum	Do.
Contingent.			
Davis	Gardener	$100 per month	Appropriation contingent expenses Treasury Department—ice, &c.
Chew	Fireman	$60 per month	Do.
Clark	Laborer	$55 per month	Do.
Sarah O'Neill	do	$50 per month	Do.
Borland	do	$50 per month	Do.
ohnson	do	$50 per month	Do.
r Makal	do	$50 per month	Do.
Brown	do	$50 per month	Do.
Driscoll	do	$45 per month	Do.
Trunnel (temporarily employed).	Carpenter, 2d Auditor's office.	$55 per month	Do.
a Brandt	Waste-paper assorter.	$30 per month	Appropriation contingent expenses Treasury Department—miscellaneous items.
Lane	do	$30 per month	Do.
ia Wallace	do	$30 per month	Do.
cy Beck	In charge of stable.	$70 per month	Appropriation contingent expenses Treas'y Dep't—horses, wagons, &c.
m Mitchell	Laborer at stable	$50 per month	Do.
s Johnson	do	$50 per month	Do.
G. McComb	do	$50 per month	Do.
Gibson	do	$40 per month	Do.
Coates	do	$40 per month	Do.
Kemp	Cabinet-maker	$3.50 per diem	Appropriation contingent expenses Treasury Dep't—furniture, &c.
D. Everson	do	$3 per diem	Do.
wzee	do	$3 per diem	Do.
Donn, jr	do	$3 per diem	Do.
Degges	do	$3 per diem	Do.
Isphardin	do	$3 per diem	Do.
rd Ryan	do	$3 per diem	Do.
Redbird	do	$3 per diem	Do.
Paul	do	$3 per diem	Do.
Phillips	do	$3 per diem	Do.
Viedt	do	$3 per diem	Do.
Woodward	do	$3 per diem	Do.
Williamson	do	$3 per diem	Do.
Lehnert	Helper in cabinet shop.	$60 per month	Do.
ew Sessford	Foreman of bindery.	$1,565 per annum	Appropriation contingent expenses Treasury Department—binding, newspapers, &c.
s Martin	Binder	$4 per diem	Do.
ings Paul	do	$4 per diem	Do.
field S. Sessford	do	$4 per diem	Do.
k Dowling	do	$4 per diem	Do.
uel Minich	Sewer and folder	$2.50 per diem	Do.
ployés on laundry e, who are paid 30 per doz. for washing els, averaging about per month each.			Appropriation contingent expenses Treasury Department—miscellaneous items.

ese employés will be found included in the list under "Secretary's Division of Stationery, Printnd Blanks," where they are employed.

Employés of the Treasury Department not specifically provided for in appropriation laws.

SUPERVISING ARCHITECT.

No.	Names.	Salary.	Grade or occupation.	Paid from appropriation for—	Authority and remarks.
1	Thomson, A. G ..... per day..	$10 00	Chief computer and inspector of public buildings.	Various public buildings.....	Under letters of Secretary of the Treasury, various dates.
2	Church, E. G ..... do.....	10 00	Inspector of accounts	.....do	Do.
3	Low, James P ..... do.....	9 60	Civil engineer	.....do	Do.
4	Kendall, Henry H ..... do.....	8 00	Principal draughtsman	.....do	Do.
5	Powell, Thomas H ..... do.....	6 50	Draughtsman	.....do	Do.
6	Stutz, Louis F ..... do.....	6 50	.....do	.....do	Do.
7	Atkinson, Robert H ..... do.....	6 00	.....do	.....do	Do.
8	Marshall, James R ..... do.....	6 00	.....do	.....do	Do.
9	Klemroth, Edgar H ..... do.....	6 00	.....do	.....do	Do.
10	Niemsie, jr., John R ..... do.....	6 00	.....do	.....do	Do.
11	Brodhay, Louis ..... do.....	6 00	.....do	.....do	Do
12	Avery, Edward T ..... do.....	5 50	.....do	.....do	Do.
13	Totten, Cornelius A ..... do.....	5 50	.....do	.....do	Do.
14	Merriman, Ralph ..... do.....	5 00	.....do	.....do	Do.
15	Jackson, Frank H ..... do.....	5 00	.....do	.....do	Do.
16	Herman, Charles ..... do.....	5 00	.....do	.....do	Do.
17	Brentano, C. Theo ..... do.....	5 00	.....do	.....do	Do.
18	Terney, Charles F ..... do.....	5 00	.....do	.....do	Do.
19	Stead, Robert ..... do.....	4 50	.....do	.....do	Do.
20	Stryker, jr., Francis B ..... do.....	4 50	.....do	.....do	Do.
21	Hosford, James E ..... do.....	4 50	.....do	.....do	Do.
22	Wamlebey, William A ..... do.....	4 50	.....do	.....do	Do.
23	Phelps, George B ..... do.....	4 50	.....do	.....do	Do.
24	Condon, Ed. O'M ..... do.....	4 00	.....do	.....do	Do.
25	Simons, Edgar P ..... do.....	4 00	.....do	.....do	Do.
26	Tolman, Albert J ..... do.....	4 00	.....do	.....do	Do.
27	Oldberg, John G ..... do.....	4 00	.....do	.....do	Do.
28	Kenfield, Charles S ..... do.....	4 00	Locksmith	.....do	Do.
29	Gill, De L. W ..... do.....	3 50	Draughtsman	.....do	Do.
30	Cox, Benjamin ..... do	3 50	.....do	.....do	Do.
31	Bruff, J. Goldsborough ..... do.....	3 00	.....do	.....do	Do.
32	Bogert, Alice V ..... do.....	3 00	.....do	.....do	Do.
33	Richardson, Francis M ..... do	3 00	.....do	.....do	Do.
34	Adams, Annie P ..... per day..	3 00	.....do	.....do	Do.
35	Nelson, Emma G ..... do.....	3 00	.....do	.....do	Do.
36	Elder, Anna A ..... do.....	3 00	.....do	.....do	Do.
37	Dungan, Kate P ..... per annum..	900 00	.....do	.....do	Do.
38	Vall, Herbert ..... per day..	8 00	Computer	.....do	Do.
39	McLean, Harry C ..... do.....	6 50	.....do	.....do	Do.
40	Sutherland, John A ..... do.....	6 00	.....do	.....do	Do.
41	Little, John J ..... do.....	6 00	.....do	.....do	Do.

42	Conkle, William H	do	5 50	do	do	Do.
43	Clarke, W. J. P	do	5 50	do	do	Do.
44	Blackwell, J. E	do	5 50	do	do	Do.
45	Pease, F. W	do	5 50	do	do	Do.
46	Smith, F. W	do	5 00	do	do	Do.
47	Bromwell, T. C. S	do	5 00	do	do	Do.
48	Weifich, Jesse H	do	5 00	do	do	Do.
49	Garretson, Peter S	do	4 50	do	do	Do.
50	Milliken, Frank	do	4 50	do	do	Do.
51	Patterson, James G	do	4 00	do	do	Do.
52	Fenton, Lucien J	do	4 00	do	do	Do.
53	Robinson, Herman F	do	4 00	do	do	Do.
54	Patterson, John B	do	6 50	Accountant	do	Do.
55	Wood, George M	do	5 50	Photographer	do	Do.
56	Dupray, St. J. B	do	5 50	do	do	Do.
57	Collin, Achille	do	6 00	Modeler	do	Do.
58	Bailly, Joseph A	do	5 50	do	do	Do.
59	Buhler, William	do	5 00	do	do	Do.
60	Hansen, C. H	do	5 00	do	do	Do.
61	Morean, F	do	5 00	do	do	Do.
62	Thomas, Henry	do	5 00	do	do	Do.
63	Vanden Berghen, A. L. R	do	5 00	do	do	Do.
64	Searle, Henry	do	4 00	do	do	Do.
65	Phelps, T. W. S	do	5 00	Assisting photographer	do	Do.
66	Haight, Edward R	do	4 00	do	do	Do.
67	Ahern, Margaret	per month	75 00	do	do	Do.
68	Holmes, C. E. H	per day	4 00	Mailing and shipping clerk	do	Do.
69	Dockery, John	do	3 75	Assistant mailing clerk	do	Do.
70	Von Tagen, Virginia	per month	100 00	Clerk	do	Do.
71	Johnson, Henry	per annum	1,000 00	do	do	Do.
72	Cunningham, John	do	900 00	do	do	Do.
73	Santucci, G	per day	3 00	Molder	do	Do.
74	Aiken, Sarah O	per annum	900 00	Copyist	do	Do.
75	Hazen, Mary C	do	900 00	do	do	Do.
76	Crawford, Josephine E	do	900 00	do	do	Do.
77	Sanderson, Hannah	do	900 00	do	do	Do.
78	Bredin, Anne	do	900 00	do	do	Do.
79	Wyman, Sarah E	per month	75 00	do	do	Do.
80	Finley, Elanora	do	75 00	do	do	Do.
81	Harding, Carrie	do	75 00	do	do	Do.
82	Kail, Mary E	do	75 00	do	do	Do.
83	Mixon, Burrill	per annum	840 00	Messenger	do	Do.
84	Fillmore, Harrison	per month	35 00	Laborer	do	Do.

Employés in the Treasury Department not specifically provided for in appropriation laws—Continued.

GENERAL SUPERINTENDENT OF THE LIFE-SAVING SERVICE.

No.	Names.	Salary.	Grade or occupation.	Paid from appropriation for—	Authority and remarks.
1	Von Bayer, Hector	$1,600 00	Civil engineer, draughtsman, &c.	Life-Saving Service	Act March 3, 1881, 21 Stat., 438.
2	Bibb, Albert B.....per month	150 00	Topographer, hydrographer, and draughtsman.	.....do	Do.
3	Kearney, Nicholas J .....do	100 00	Assisting superintendents of construction of life-saving stations and chief inspector.	Establishing life-saving stations.	Act March 3, 1881, 21 Stat., 438; act June 18, 1878, 20 Stat., sec. 1.
4	Cherry, Peter G .....do	100 00	.....do	.....do	Do.
5	Noah, William H..... do	75 00	.....do	.....do	Do.
6	Miller, John H.....do	125 00	Assisting in preparation of plans and specifications for life-saving and life-boat stations and houses of refuge, in the supervision and construction of stations, and in preparing plans for and supervising the repairs and improvement of stations.	.....do	Act June 18, 1878, 20 Stat., sec. 1, and letters of Secretary of Treasury.

The duties of Mr. von Bayer will have to be performed upon the coast a great portion of the time, but at present he is occupied in the office of the General Superintendent of Life-Saving Service, upon plans and specifications of work to be done on the coast when the season will permit.

The duties of Mr. Bibb are chiefly on the coast, although he is at present in the office of the General Superintendent, preparing a report of his last season's field-work. If these gentlemen are continued in the service, they will, a portion of the time, be engaged on work in connection with the establishment of life-saving stations, in which case their compensation, of course, would be payable from the appropriation, "Establishment of life-saving stations."

The duties of Mr. Kearney: he is employed a portion of the time in the office of the superintendents of construction and the chief inspector at New York City, a portion of the time in inspecting boats, apparatus, outfits and supplies for stations, and is sometimes employed upon the coast in supervising the construction of stations.

The duties of Messrs. Cherry and Noah: they are employed almost exclusively in writing in the office of the superintendents of construction and the inspector.

Mr. Miller, a builder of great practical experience, is employed the larger portion of the time in work upon the coast.

COMMISSIONER OF CUSTOMS.

No.	Names.	Salary.	Grade or occupation.	Paid from appropriation for—	Authority and remarks.
1	Townsend, E. L	$1,600 00	Clerk third class	Expenses collecting revenue from customs.	Section 2646 Revised Statutes.
2	Lewis, William	1,400 00	Clerk second class	do	Do.
*3	Rattigan, James	1,200 00	Clerk first class	do	Section 2646 Revised Statutes, and letters of Secretary of Treasury.

* Temporary for two months from January 12, 1882.

LIGHT-HOUSE BOARD.

No.	Names.	Salary.	Grade or occupation.	Paid from appropriation for—	Authority and remarks.
1	Pelz, Paul J. per month	$200 00	Assistant civil engineer	Light-House Establishment	The employés named are paid from appropriations for the Light-House Service, but their duties being multifarious and connected with all branches of the service, they are paid now from one now from another of the several appropriations for the Light-House Establishment or from appropriations for special works. No distinct separation according to appropriations can therefore be made. The authority for the payment is in each case derived from the Secretary of the Treasury, the employment being "necessary to carry into effect some object for which an appropriation is specifically made," as provided in section 172 Revised Statutes.
2	Theilkuhl, Ferdinand do	150 00	Draughtsman	do	
3	José, Jacob do	140 00	do	do	
4	Wagner, John W do	110 00	do	do	
5	Hausman, Max do	100 00	do	do	
6	Easton, Edward D. per annum	1,400 00	Writer (stenographer)	do	
7	Kiernan, Mrs. Harriet J do	1,200 00	Writer	do	
8	Burghardt, Miss C. A do	900 00	do	do	
9	Brandt, Miss Mirian do	900 00	do	do	
10	Bleecker, Miss Rosalie do	900 00	do	do	
11	Cassell, Miss Florence do	900 00	do	do	
12	Collins, Mrs. Catharine R do	900 00	do	do	
13	Edes, Mrs. Grace do	900 00	do	do	
14	Jackson, Miss S. D do	900 00	do	do	
15	Jones, Miss Martha C do	900 00	do	do	
16	Jones, Mrs. Lizzie H do	900 00	do	do	
17	McLeod, Miss M. A do	900 00	do	do	
18	McVeigh, Miss C do	900 00	do	do	
19	Robinson, Miss E. E do	900 00	do	do	
20	Taylor, Miss Alice E do	900 00	do	do	
21	Tilton, Miss Eliz. L do	900 00	do	do	
22	Trees, Mrs. Mary A per month	60 00	Messenger	do	
23	Hopkins, Albert D per day	2 00	Laborer	do	
24	Train, Michael per month	50 00	do	do	

TREASURER OF THE UNITED STATES.

No.	Names.	Salary.	Grade or occupation.	Paid from appropriation for—	Authority and remarks.
1	Croggon, Henry	$1,200 00	Clerk first class	Redemption of worn and mutilated United States notes.	Authority, letter Secretary of the Treasury, September 1, 1881.

Employés in the Treasury Department not specifically provided for in appropriation laws—Continued.

BUREAU OF STATISTICS.

No.	Names.	Salary.	Grade or occupation.	Paid from appropriation for—	Authority and remarks.
1	Anderson, John P	$1,200 00	Clerk first class	Collecting information relative for internal and foreign commerce. (Act March 3, 1881, and prior years.)	Letter Secretary Treasury, December 1, 1877.
2	Rowland, John A	1,200 00	do	do	Letter Secretary Treasury, February 1, 1880.
3	Leesnitzer, George W	1,200 00	do	do	Letter Secretary Treasury, July 1, 1881.
*4	Beach, Edmund L. per month	100 00	Clerk	do	Letter Secretary Treasury, January 10, 1882.
5	Murray, jr., Spencer	840 00	Messenger	do	Letter Secretary Treasury, August 13, 1880.
†6	Morgan, George H	400 00	Expert	do	Letter Secretary Treasury, July 14, 1881.
‡7	Hester, Henry G	400 00	do	do	Letter Secretary Treasury, July 15, 1881.
§8	Midgley, J. W	350 00	do	do	Letter Secretary Treasury, July 15, 1881.
‖9	Maxwell, Sidney D	400 00	do	do	Letter Secretary Treasury, July 23, 1881.
¶10	Randolph, Charles	400 00	do	do	Letter Secretary Treasury, July 23, 1881.

* Mr. Beach appointed temporarily for two months from January 16, 1882.

† Mr. Morgan is Secretary of the Board of Trade of Saint Louis, Mo., and is engaged to furnish information in regard to commercial, industrial, and transportation interests of Saint Louis.

‡ Mr. Hester is secretary of the Cotton Exchange of New Orleans, and is engaged to furnish information in regard to the production and transportation of cotton, and the commercial, industrial, and transportation interests of New Orleans and the State of Louisiana.

§ Mr. Midgley is railroad commissioner, and is engaged to furnish information in regard to the transportation interests of the Western and Northwestern States, and of the country generally.

‖ Mr. Maxwell is the superintendent of the Chamber of Commerce of Cincinnati, and is engaged to furnish information in regard to the commercial, industrial, and transportation interests of Cincinnati.

¶ Mr. Randolph is secretary of the Board of Trade of Chicago, and is engaged to furnish information in regard to the transportation interests of Chicago and the trade of the Northwest.

SPECIAL AGENTS' DIVISION.

No.	Names.	Salary.	Grade or occupation.	Paid from appropriation for—	Authority and remarks.
1	Hinsdale, S. R ..... per day..	$4 00	Employé.....	Prevention and detection of frauds on customs revenue.	Act Mar. 3, '79, and letter of Secretary Feb. 1, '81.
2	Hunter, S. G ..... do....	2 30	..... do	.....do	Act Mar. 3, '79, and letter of Secretary Mar. 1, '80.
3	Moore, H. A ..... per annum..	1,600 00	.....do	.....do	Act Mar. 3, '79, and letter of Secretary Nov. 6, '79.
4	Cansi, T ..... per day..	4 00	.....do	.....do	Act Mar. 3, '79, and letter of Secretary July 11, '81.
5	Crouk, S. D ..... do....	4 00	..... do	..... do	Act Mar. 3, '79, and letter of Secretary May 13, '80.
6	Cummings, J. C ..... do....	3 00	.....do	.....do	Act Mar. 3, '79, and letter of Secretary Feb. 5, '81.
7	Finke, Oscar ..... do ..	2 50	.....do	.....do	Act Mar. 3, '79, and letter of Secretary Nov. 14, '79.
8	Hanigan, M ..... do....	3 00	.....do	.....do	Act Mar. 3, '79, and letter of Secretary July 12, '81.
9	Pratt, R. M ..... do....	4 00	.....do	.....do	Act Mar. 3, '79, and letter of Secretary May 9, '79.
10	Edwards, Jos ..... per month..	50 00	.....do	.....do	Act Mar. 3, '79, and letter of Secretary Nov. 22, 80.
11	Bloss, O. P ..... per day..	4 00	.....do	.....do	Act Mar. 3, '79, and letter of Secretary June 17, '81.
12	Springer, R. M ..... do....	4 00	.....do	.....do	Act Mar. 3, '79, and letter of Secretary Feb. 2, '82.
13	Hewitt, Thomas ..... do....	2 00	.....do	.....do	Act Mar. 3, '79, and letter of Secretary Dec. 3, '81.
14	Glandel, H ..... do....	3 00	.....do	.....do	Act Mar. 3, '79, and letter of Secretary Feb. 20, '80.
15	Chadwick, M. H ..... do....	4 00	.....do	.....do	Act Mar. 3, '79, and letter of Secretary May 4, '81.
16	Clarke, William ..... do....	4 00	.....do	.....do	Act Mar. 3, '79, and letter of Secretary Jan. 6, '82.

NOTE.—The above are employed at the following-named places: Messrs. Hinsdale and Hunter in special agents' division, Treasury Department, Washington; Messrs. Moore, Cansi, Crouk, Cummings, and Finke at custom-house, New York City; Mr. Hanigan at custom-house, New York, for a limited period; Messrs. Pratt and Edwards at custom-house, New Orleans, La.; Mr. Bloss at Montreal, Canada; Mr. Springer at Boston, Mass.; Messrs. Hewitt and Clarke at London, England, the latter until April 30, 1882; Mr. Glandel at New York custom-house; Mr. Chadwick at Philadelphia custom-house.

DIRECTOR OF THE MINT.

No.	Names.	Salary.	Grade or occupation.	Paid from appropriation for—	Authority and remarks.
1	Adams, Eugene C ..... per month..	$100 00	Stenographer	Coinage standard silver dollars.	Authority, act of February 28, 1878, and letter Secretary Treasury October 10, 1881.
2	McSwyney, Eugene B.... per annum..	1,000 00	Clerk	.....do	Authority, act of February 28, 1878, and letter February 14, 1882.
1	Spackman, H E ..... per month..	50 00	..... do	Collecting mining statistics ...	Under act March 3, 1881.
2	Robinson, Edward C ..... do....	30 00	.....do	.....do	Under act March 3, 1881, and letters of Secretary of Treasury.

List of persons employed in the Internal Revenue Bureau paid from the appropriation for dies, paper, and stamps.

	Name.	Occupation.	Salary.
1	Lewis, Charles F	Superintendent stamp vault	$2,000 00
2	Walters, W. S. S	Bookkeeper	1,800 00
3	Marshall, F. Lewis	Chief packer and shipping clerk	1,200 00
4	Summy, Orlando D	Assistant packer and shipping clerk	1,200 00
5	Hayden, Francis W	Clerk	1,000 00
6	Bartlett, Miss Hattie	Copyist	900 00
7	Bennett, Miss A. R	do	900 00
8	Bradford, Miss Carrie	do	900 00
9	Clampitt, Miss A. A	Clerk	900 00
10	Davies, Mrs. M. C	do	900 00
11	Farquhar, Miss M. E	Counter	900 00
12	Foos, Mrs. Kitty S	Clerk	900 00
13	Handy, Miss Josephine	do	900 00
14	Herron, Mrs. Laura J		900 00
15	Humphreys, Mrs. Sallie	Counter	900 00
16	Jones, Mrs. Jennie	Clerk	900 00
17	Kearney, Miss Eleanor	Counter	900 00
18	Kelley, Miss Columbia	do	900 00
19	Kellogg, Miss C. C	Clerk	900 00
20	Lathrop, Mrs. Mattie	do	900 00
21	Lovell, Miss Fannie	Counter	900 00
22	Paige, Miss Sadie L	Clerk	900 00
23	Pinder, Mrs. Mary E	do	900 00
24	Quint, Miss Clara G	Counter	900 00
25	Skelton, Mrs. L. E	do	900 00
26	Solger, Miss Juliet	Stenographer	900 00
27	Soulé, Miss Helen F	Counter	900 00
28	Stanford, Miss H. R	Clerk	900 00
29	Stoffregen, Miss M	Counter	900 00
30	Strause, Mrs. N. M		900 00
31	Templeton, Mrs. E	Counter	900 00
32	White, Mrs. Kate A	do	900 00
33	Alexander, George W	Assistant messenger	720 00
34	Davis, Louis	do	720 00
35	Elam, George W	do	720 00
36	Holley, David L	do	720 00
37	Johnson, Henry L	do	720 00
38	Keyes, Daniel	do	720 00
39	King, Edwin	do	720 00
40	Lucas, Albert H	do	720 00
41	Scott, Romine P	do	720 00
42	Hantz, Willie R	Laborer	660 00
43	Throckmorton, Ernest U	do	660 00
44	Walton, Moses	do	660 00
45	Lowth, William A	Superintendent of stamp agents	2,100 00

The foregoing persons are employed by the Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury, in connection with the procuring and issuing of internal-revenue stamps required by law, their custody, &c., and are paid from the specific appropriation for dies, paper, and stamps by the legislative, executive, and judicial act approved March 2, 1881.

List of persons employed in the Internal Revenue Bureau paid from the appropriation for detecting and bringing to trial and punishment persons guilty of violating the internal-revenue laws.

	Name.	Occupation.	Salary.
1	Henkel, August	Clerk	$1,200 00
2	Bodfish, Mrs. A. L	do	900 00
3	Hanna, Mrs. Margaret	do	900 00
4	Heumeyer, Miss Ida F	do	900 00
5	Colbert, Robert	Assistant messenger	720 00

The foregoing persons are employed by the Commissioner of Internal Revenue, and are engaged in preparing transcripts of the books of dealers in leaf tobacco to aid in preventing and detecting frauds in the manufacture of tobacco and cigars. They are also employed in keeping records of seizures of illicit distilleries, and the suppression of frauds in general.

United States Marine Hospital Service.

Name.	Designation.	Salary.	Where stationed or employed.	Fund and authority.
		Per annum.		
Hamilton, John B..	Supervising Surgeon-General.	$4,000	Washington, D. C.....	Marine Hospital; act Mar. 3, 1875, 18 Stat., p. 377.
Bailhache, P. H	Surgeon	3,000	National Board of Health.	(Detailed by act Mar. 3, 1879, 20 Stat., p. 484.) Sec. 4803 R. S.; sec. 3689 R. S., p. 726.
Vansant, John	....do	2,500	San Francisco, Cal	Sec. 4803 R. S.; sec. 3689 R. S., p. 726.
Hutton, W. H. H...	....do	2,500	Detroit, Mich	Do.
Miller, T. W.....	....do	2,500	Chicago, Ill	Do.
Wyman, Walter ...	....do	2,500	Cincinnati, Ohio	Do.
Long, W. H	....do	2,500	Louisville, Ky	Do.
Murray, R. D	....do	2,500	Memphis, Tenn.....	Do.
Fessenden, C. S. D..	....do	2,500	New York, N. Y	Do.
Purviance, George .	....do	2,500	Boston, Mass	Do.
Sawtelle, H. W.....	....do	2,500	Saint Louis, Mo.....	Do.
Austin, H. W	....do	2,500	New Orleans, La.....	Do.
Gassaway, J. M	... do	2,500	Philadelphia, Pa.....	Do.
Smith, Henry	...do	2,500	Norfolk, Va	Do.
Stoner, G. W	Passed assistant surgeon.	1,800	Portland, Me.....	Do.
Fisher, J. C	....do	1,800	Washington, D. C	Do.
Godfrey, John	....do	1,800	Mobile, Ala	Do.
Goldsborough, C. B.	....do	1,800	Baltimore, Md	Do.
Irwin, Fairfax	Assistant surgeon ..	1,600	Wilmington, N. C.....	Do.
Mead, F. W	....do	1,600	Port Townsend, Wash.	Do.
Cooke, H. P	....do	1,600	Galveston, Tex	Do.
Carter, H. R	....do	1,600	Cairo, Ill.....	Do.
Heath, W. H	....do	1,600	Buffalo, N. Y.....	Do.
O'Connor, F. J	....do	1,600	Detroit, Mich	Do.
Porter, F. D.....	....do	1,600	Chicago, Ill	Do.
Guitéras, John.....	....do	1,600	Key West, Fla	Do.
Wheeler, W. A.....	....do	1,600	Charleston, S. C	Do.
Benson, J. A	....do	1,600	Saint Louis, Mo.....	Do.
Banks, C. E.....	....do	1,600	Portland, Oreg.....	Do.
Carmichael, D. A...	....do	1,600	Pittsburgh, Pa	Do.
Armstrong, S. T ...	....do	1,600	New Orleans, La.....	Do.
Bennett, P. H	....do	1,600	Boston, Mass	Do.
Peckham, C. T	....do	1,600	New York, N. Y	Do.
Ames, R. P. M	....do	1,600	Evansville, Ind	Do.
Devan, S. C	....do	1,600	San Francisco, Cal	Do.
Urquhart, F. M	....do	1,600	New York, N. Y	Do.
Kalloch, P. C.....	....do	1,600	.....do ..(temporary).	Do.
Allen, J. M	Acting assistant surgeon.	800	Milwaukee, Wis	Do.
Banks, W. A.....	....do	480	Rockland, Me.....	Do.
Bates, H. G	....do	360	New Berne, N. C.....	Do.
Beebe, B. F	....do	600	Cincinnati, Ohio	Do.
Bibber, R. D	....do	300	Bath, Me	Do.
Blount, F. N	....do	600	Pensacola, Fla	Do.
Bready, J. E	....do	180	Dubuque, Iowa	Do.
Brewster, J. B	....do	180	Plymouth, Mass	Do.
Brune, T. B	.. do	840	Baltimore, Md	Do.
Case, G. B.....	....do	800	Cleveland, Ohio	Do.
Cox, W. A	....do	180	Pascagoula, Miss	Do.
De Witt, Byron....	....do	500	Oswego, N. Y.....	Do.
Edwards, L. B	....do	500	Richmond, Va	Do.
Fisher, A. W.....	....do	300	Toledo, Ohio.....	Do.
Foster, J. P. C	....do	240	New Haven, Conn	Do.
Gelzer, T. L.....	....do	150	Escanaba, Mich.....	Do.
Griffiths, W. M	....do	1,000	Louisville, Ky	Do.
Hamilton, Alex	....do	300	Corpus Christi, Tex ..	Do.
Hamlin, A. C.....	....do	600	Bangor, Me	Do.
Harding, G. A	....do	150	Sault Ste. Marie, Mich.	Do.
Hodges, R. C.	....do	200	Indianola, Tex	Do.
Hodgkins, L. W....	....do	300	Ellsworth, Me	Do.
Hunter, S. B	.. do	300	Machias, Me	Do.
Kercheval, J. M ...	....do	150	Nashville, Tenn.....	Do.
Mereness, H. E	....do	100	Albany, N. Y	Do.
Mills, H. R.....	....do	150	Port Huron, Mich.....	Do.
Mitchell, J. D	....do	360	Jacksonville, Fla	Do.
Ottilie, Charles ...	....do	360	La Crosse, Wis.....	Do.
Pease, R. H	....do	600	Chicago, Ill	Do.
Price, T. T.....	....do	500	Tuckerton, N. J.....	Do.
Robbins, S. D	....do	600	Vicksburg, Miss	Do.
Sears, S. H	....do	150	Newport, R. I.....	Do.
Small, Elmer.....	....do	180	Belfast, Me	Do.
Smart, W. N	....do	150	Grand Haven, Mich ..	Do.
Stanton, J. G	....do	200	New London, Conn ...	Do.

United States Marine Hospital Service—Continued.

Name.	Designation.	Salary.	Where stationed or employed.	Fund and authority.
Starbuck, Theodore	Acting assistant surgeon.	p. a. $300	Fernandina, Fla	Marine Hospital; sec. 4803, R. S.; sec. 3689, R. S., p. 726.
Stewart, W. D	do	p. a. 1,000	Vineyard Haven, Mass	Do.
Stone, G. H	do	1,200	Savannah, Ga	Do.
Strickland, D. H	do	250	Erie, Pa	Do.
Taft, H. S	do	300	Marquette, Mich	Do.
Taylor, Joseph	do	720	Shreveport, La	Do.
Taylor, W. H	do	250	New Bedford, Mass	Do.
Van Deman, J. H	do	300	Chattanooga, Tenn	Do.
Wentworth, M. F	do	300	Portsmouth, N. H	Do.
Wheaton, C. A., jr	do	180	Saint Paul, Minn	Do.
Wood, J. E	do	150	Elizabeth City, N. C	Do.
Achenbach, John	Hospital steward	600	Saint Louis, Mo	Do.
Beardsley, J. F	do	420	Vineyard Haven, Mass	Do.
Bower, S. W	do	480	Wilmington, N. C	Do.
Finlay, D. C	do	p. m. 60	New York, N. Y	Do.
Gahn, Henry	do	900	Washington, D. C	Do.
Hays, T. H	do	600	Baltimore, Md	Do.
Hecox, B. F	do	600	San Francisco, Cal	Do.
Jay, G. W	do	600	Boston, Mass	Do.
Maxfield, T. R	do	420	Detroit, Mich	Do.
McAfée, J. J	do	420	Mobile, Ala	Do.
Otto, Joseph, jr	do	420	Key West, Fla	Do.
Richardson, S. W	do	500	Portland, Me	Do.
Roehrig, Albert	do	600	Norfolk, Va	Do.
Morris, Horace	do	600	Louisville, Ky	Do.
Stoner, J. B	do	600	Philadelphia, Pa	Do.
Villiers, Francisco	do	720	Chicago, Ill	Do.
Wallroth, A. H	do	480	New York, N. Y	Do.
Bradbury, Frank	Engineer	p. m. 50	Boston, Mass	Do.
Johnson, J. J	Hospital attendant	p. m. 30	do	Do.
Mahan, E. E	do	p. m. 25	do	Do.
Stanwood, F. C	do	p. m. 25	do	Do.
Cashman, Mary	do	p. m. 22	do	Do.
Johnson, Andrew	do	p. m. 20	do	Do.
Moulton, A. B	do	p. m. 20	do	Do.
Moulton, G. W	do	p. m. 20	do	Do.
Smyth, James	do	p. m. 20	do	Do.
Heinze, F. M. S	Messenger	p. m. 25	Buffalo, N. Y	Do.
Newitt, D. C	do	p. m. 25	Cairo, Ill	Do.
Fee, William	Engineer	p. m. 60	Chicago, Ill	Do.
Jones, C. A	Assistant engineer	p. m. 30	do	Do.
McCormick, W. P	Hospital attendant	p. m. 20	do	Do.
Olberg, Bertha	do	p. m. 20	do	Do.
Quinn, Mary	do	p. m. 20	do	Do.
Faber, Charles	do	p. m. 20	do	Do.
Faber, Sarah	do	p. m. 20	do	Do.
Gunery, G. M	do	p. m. 30	do	Do.
Cunningham, Annie	do	p. m. 20	do	Do.
O'Shea, Thomas	do	p. m. 20	do	Do.
d'Ronin, Otto	do	p. m. 20	do	Do.
Newell, William	do	p. m. 20	do	Do.
Cody, Henry	do	p. m. 20	do	Do.
Dobbs, Lewis	do	p. m. 20	do	Do.
Ball, C. J	do	p. m. 20	do	Do.
Reese, Joseph	Messenger	p. m. 20	Cincinnati, Ohio	Do.
Schmidt, Henry	Hospital attendant	p. m. 20	Detroit, Mich	Do.
McGuire, Michael	do	p. m. 20	do	Do.
August, Charles	do	p. m. 20	do	Do.
Ducrot, Peter	do	p. m. 18	do	Do.
McDowell, William	do	p. m. 18	do	Do.
Shaw, Nora	do	p. m, 16	do	Do.
Willis, Louise	do	p. m. 15	do	Do.
McDowell, Lizzie	do	p. m. 13	do	Do.
Garvin, Thomas	do	p. m. 20	Key West, Fla	Do.
Ewart, Gustave	do	p. m. 20	do	Do.
Thomas, Maria	do	p. m. 16	do	Do.
Willmore, G. A	do	p. m. 12	do	Do.
Maier, Mathias	Messenger	p. m. 8	La Crosse, Wis	Do.
Cottrell, William	Hospital attendant	p. m. 20	Louisville, Ky	Do.
Fisher, Charles	do	p. m. 20	do	Do.
Rogers, R. M	do	p m. 20	do	Do.
Ross, C. W	do	p. m. 20	do	Do.
Clark, Allen	do	p. m. 15	do	Do.
Cowan, Willis	do	p. m. 15	do	Do.
Kelly, Ann	do	p. m. 15	do	Do.
Robinson, Robert	do	p. m. 15	do	Do.
Burbage, T. P	Messenger	p. m. 25	Memphis, Tenn	Do.
Kluender, William	do	p. m. 12	Milwaukee, Wis	Do.

United States Marine Hospital Service—Continued.

Names.	Designation.	Salary.	Where stationed or employed.	Fund and authority.
Gifford, Paul	Hospital attendant	p. m. $25	Mobile, Ala	Marine Hospital; sec. 4803, R. S.; sec. 3689, R. S., p. 726.
Lock, J. J	do	p. m. 25	do	Do.
Riley, James	do	p. m. 20	do	Do.
Gains, Robert	do	p. m. 16	do	Do.
Sands, James	do	p. m. 16	do	Do.
McAfee, Bridget	do	p. m. 15	do	Do.
Gifford, Mollie	do	p. m. 10	do	Do.
Jackson, Edward	Messenger & driver.	p. m. 35	New Orleans, La	Do.
Patterson, Allanson	Engineer	p. m. 50	New York, N. Y	Do.
Asblund, Charles	Hospital attendant	p. m. 25	do	Do.
Storm, Martin	do	p. m. 25	do	Do.
Collins, H. C	do	p. m. 25	do	Do.
Thomas, E. W	do	p. m. 25	do	Do.
McIntyre, Peter	do	p. m. 25	do	Do.
Ottiwell, R. A	do	p. m. 25	do	Do.
Raftery, Patrick	do	p. m. 25	do	Do.
Beiker, P. H	do	p. m. 25	do	Do.
Herbert, Gillis	do	p. m. 25	do	Do,
Ferguson, George	do	p. m. 25	do	Do.
Powers, Bridget	do	p. m. 20	do	Do.
Warren, C. N	do	p. m. 20	do	Do.
Olsen, Alexander	do	p. m. 20	do	Do.
Gorman, John	do	p. m. 18	do	Do.
Watson, Henry	do	p. m. 15	do	Do.
Blenquist, Victor	do	p. m. 15	do	Do.
Harris, Gilbert	do	p. m. 15	do	Do.
Crew of steam ambulance John M. Woodworth:*				
Laughlin, Jos	Master and pilot	p. a. 1,500	do	Do.
Sherburne, F	Boatswain	p. m. 35	do	Do.
Oberg, Atel	Fireman	p. m. 35	do	Do.
Spratley, Wm	do	p. m. 35	do	Do.
Anderson, Chas	Seaman	p. m. 20	do	Do.
Tiedeman, Aug	do	p. m. 20	do	Do,
Kemp, Franklin	Messenger & driver	p. m. 30	Norfolk, Va	Do.
Blair, J. F	Messenger	p. m. 15	Pittsburgh, Pa	Do.
Mollison, Alexander	Hospital attendant	p. m. 25	Portland, Me	Do.
Larsen, Peter	do	p. m. 25	do	Do.
Dawson, B. A	do	p. m. 25	do	Do.
Norberg, Charles	do	p. m. 20	do	Do.
Olsen, John	do	p. m. 20	do	Do.
Henning, W. R	do	p. m. 25	Saint Louis, Mo	Do.
Peetz, Henry	do	p. m. 25	do	Do.
Weinhagen, L	do	p. m. 20	do	Do.
Gooch, William	do	p. m. 20	do	Do.
Green, James	do	p. m. 20	do	Do
Scruggs, B. I	do	p. m. 20	do	Do.
Thompson, George	do	p. m. 20	do	Do.
Tharp, William	do	p. m. 20	do	Do.
Conolly, Mary	do	p. m. 18	do	Do.
Connolly, Kate	do	p. m. 15	do	Do.
Kuhn, Julia	do	p. m. 15	do	Do.
Churchill, Ellen	do	p. m. 15	do	Do.
Burnet, Richard	Engineer	p. m. 40	San Francisco, Cal	Do.
Dickenson, S. B	Hospital attendant	p. m. 35	do	Do.
Lustig, D. D	do	p. m. 30	do	Do.
Baker, Isaac	do	p. m. 25	do	Do.
Holden, W. B	do	p. m. 20	do	Do.
Smith, William	do	p. m. 20	do	Do.
Peterson, A. E	do	p. m. 20	do	Do.
Peterson, William	do	p. m. 20	do	Do.
Bungard, Thomas	do	p. m. 20	do	Do.
Wilson, Andrew	do	p. m. 20	do	Do.
Johanssen, Martin	do	p. m. 20	do	Do.
Schaipper, D	do	p. m. 20	do	Do.
Keating, M. J	do	p. m. 20	do	Do.
Birdsong, Harrison	Messenger	p. m. 3	Shreveport, La	Do.
Foster, M. L	Hospital attendant	p. m. 20	Vineyard Haven, Mass	Do.
Smalley, Samuel	do	p. m. 20	do	Do.
Carr, Ellen	do	p. m. 15	do	Do.
Myers, Henry	do	p. m. 20	Wilmington, N. C	Do.
Bird, Edward	do	p. m. 15	do	Do.
Copeland, John	do	p. m. 15	do	Do.
Ashe, Scipio	do	p. m. 15	do	Do.
Douglass, Mary	do	p. m. 15	do	Do.

* This vessel plies in New York Harbor and as a ferry from the hospital on Bedloe's Island to the Battery.

Matthews, Mrs. M. S	....do	p. a.	900	.....do	Do.
Scott, Mrs. A. L	....do	p. a.	900	.....do	Do.
Simon, Alexander	....do	p. a.	900	.....do	Do.
Waldo, Mrs. M. B	....do	p. a.	900	.....do	Do.
Williams, Theo	Messenger	p. m.	50	.....do	Do.
Lewis, John	Laborer	p. m.	40	.....do	Do.
Ellis, Henry	....do	p. m.	30	.....do	Do.

RECAPITULATION.

Officers and acting assistant-surgeons	8
Hospital stewards	1
Engineers and hospital attendants	11
Master and crew, steamer Woodworth	
Clerks, copyists, and laborers	1
Total	2

List of detailed clerks, Treasury Department.

No.	Name.	Salary.	Grade or occupation.	Detailed from office.	Detailed to office.
1	Anderson, Arthur B.	$1,000 00	Clerk	Third Auditor's	Secretary's, Warrant Division.
2	Cairns, William	660 00	Laborer	....do	Secretary's, Customs Division.
3	Lovell, Henry C	1,200 00	....do	Second Auditor's	Do.
4	Richardson, John A.	p. d. 5 00	Clerk	Sec. 2646, R. S	Secretary's, Internal Revenue and Navigation Division.
5	Walcott, C. W	900 00	....do	Register's	Secretary's, Loan and Currency Division.
6	Brown, Robert A	720 00	Watchman	Superintendent's	Secretary's, library.
7	Ewing, John W	720 00	Asst. messenger.	Bureau of Statistics.	Secretary's, Revenue Marine Division.
8	Maich, J. M	1,800 00	Clerk, fourth class.	Secretary's	Special Agents' Division
9	Jordan Geo. A	1,800 00	....do	....do	Division Captured and Abandoned Property.
10	Meloy, Miss M. E	1,000 00	Clerk	Commissioner of Customs.	Do.
11	Robinson, Mrs. V. E.	1,000 00	....do	Secretary's	Do.
1	Doremus, Wm. D	1,000 00	Skilled laborer	Sixth Auditor's	Superintendent's.

List of detailed clerks, Treasury Department—Continued.

No.	Name.	Salary.	Grade or occupation.	Detailed from office.	Detailed to office.
12	Widney, W. A	$1,800 00	Clerk, fourth class.	Secretary's	Superintendent.
1	Carrier, Miss Helen	900 00	Clerk	Secretary's	Superintendent of Life Saving Service.
1	Dunlap, Henry	1,800 00	Clerk, fourth class.	Secretary's	Marine Hospital Service.
1	Robertson, Daniel	1,200 00	Clerk, first class.	Treasurer's	Bureau of Engraving and Printing.
1	Austin, Miss F. A	940 00	Copyist	First Auditor's	First Comptroller's.
2	Brannigan, Felix	1,600 00	Clerk, third class	Internal Revenue.	Do.
3	Douglass, Miss A. S.	900 00	Copyist	Register's	Do.
4	Chisolm, Mrs. E. S. M	1,200 00	Clerk, first class	do	Do.
5	Egleston, Mrs. S. W.	900 00	Copyist	First Auditor's	Do.
6	Fields, Mrs. Mary	900 00	Clerk	Third Auditor's	Do.
7	Hartman, Mrs. Eliz	900 00	do	Secretary's Lapse	Do.
8	Mallett, J. E	1,400 00	Clerk, second class.	do	Do.
1	Willard, Mrs. S. W	900 00	Copyist	Register's Lapse	First Auditor's.
2	Utley, Mrs. F. L	900 00	Clerk	Secretary's	Do.
1	Grant, Mrs. M. A	660 00	Laborer	Engraving and Printing Lapse.	Second Auditor's.
2	Hall, W. P	720 00	Asst. messenger	Superintendent	Do.
3	Foster, Miss Annie	660 00	Laborer	Engraving and Printing Lapse.	Do.
4	Scott, Miss M. V	660 00	do	Secretary's Lapse	Do.
5	Seidmore, Mrs. E. C.	900 00	Clerk	Fourth Auditor's Lapse.	Do.
1	Crawley, Mrs. Caroline.	660 00	Laborer	Engraving and Printing Lapse.	Third Auditor's.
2	Wilkins, Miss F. F	900 00	Clerk	Treasurer's Lapse	Do.
1	Brosnahan, Cornelius	720 00	Asst. messenger	First Auditor's	Fifth Auditor's.
2	Caven, Miss E	900 00	Clerk	Secretary's Lapse	Do.
3	Dow, Charles H	1,900 00	Clerk, fourth class.	Secretary's	Do.
4	Hill, Mrs. Anna	900 00	Copyist	Register's	Do.
5	Martin, Isaac N	1,800 00	Clerk, fourth class.	Secretary's	Do.
6	West, Geo. N	1,800 00	do	do	Do.
1	Bottsford, Mrs. A. A	660 00	Laborer	Secretary's	Sixth Auditor's.
2	Byrne, Mrs. Clara	900 00	Clerk	Secretary's Lapse	Do.
3	Hamilton, Mrs. H. T	900 00	do	Internal Revenue.	Do.
4	Heath, Miss A. B	900 00	do	Secretary's Lapse	Do.
5	Kirk, Rollin H	1,200 00	Clerk, first class.	Commissioner of Customs.	Do.
6	Lazenby, Mrs. R	900 00	Clerk	Secretary's Lapse	Do.
7	Martin, Miss C. E	900 00	do	do	Do
1	Bassett, George W	1,600 00	Clerk, third class	Secretary's	Register's.
2	McCauley, W. C	660 00	Laborer	do	Do.
3	McCauley, Miss M. E.	660 00	do	Secretary's Lapse	Do.
4	Pritchard, Mrs. A. J.	660 00	do	First Comptroller's Lapse.	Do.
5	Trumbull, Miss Ella	900 00	Clerk	Secretary's	Do.
1	Gilmore, Mrs. A. A	660 00	Laborer	Secretary's Lapse	Bureau of Statistics.

TREASURY DEPARTMENT,
March 14, 1882.

SIR: I have to acknowledge the receipt of your letter of the 21st ultimo, asking to be furnished, for the use of the chairman of the Committee on Appropriations, with a statement which shall set forth in number, names, class or occupation, salary and wages or pay, information showing what officers, clerks, or other employés are now in service in this department who are not specifically provided and appropriated for, but are paid from appropriations made by the government which are not specifically made in the regular appropriation laws, or other laws in terms for such purpose, and, if any such, information as to what fund they are respectively paid from, and the amount paid each per year, month, or day, and the authority for such employment; also a statement showing what clerks are detailed under the provisions of section 166, Revised Statutes, to which bureaus they were appointed and to what detailed.

In reply, I have to state that I transmit herewith statements setting forth in detail the information above requested, so far as relates to the employés paid from the following named appropriations:

For pay of custodians and janitors of public buildings; for fuel, lights, and water; for repairs and preservation; for furniture and repairs of furniture; for additional inspectors of customs; for cattle commissioners; and for salaries and expenses of steamboat inspectors, and clerks to local boards, not specifically provided for.

By reason of the vast business interests, extending over the entire country, requiring constant changes in the numbers, station, length of service, and rates of compensation of the employés in the customs, internal-revenue, and light-house services, it is almost impossible in the limited time to furnish a statement covering these branches of the department; but if the honorable committee desire such information it will be furnished as soon as practicable.

Very respectfully,

W. F. FRENCH,
Acting Secretary.

Mr. ROBERT J. STEVENS,
Clerk to Committee on Appropriations, House of Representatives.

Employés of the Treasury Department not specifically provided for in the appropriation laws

Number.	Name.	Salary per diem.	Occupation.	Paid from appropriation for—	Authority and remarks.	
1	Bartlett, John D	$4 00	Additional inspector of customs.	Collecting the revenue from customs.	Sec. 2605, Rev. Stats.	And letters of Sec. of Treas'y.
2	Chase, William H	4 00	do	do	Sec. 2606, Rev. Stats.	
3	Frazier, John W	4 00	do	do	Do.	
4	Fox, George H	4 00	do	do	Sec. 2605, Rev. Stats.	
5	Hawkins, Cyril	4 00	do	do	Sec. 2606, Rev. Stats.	
6	O'Beirne, James R	4 00	do	do	Do.	
7	Straker, David A	4 00	do	do	Do.	
8	Swords, Harry L	4 00	do	do	Do.	
9	Vale, L. W	4 00	do	do	Sec. 2605, Rev. Stats.	
10	Lamphere, George N	4 00	do	do (for six months)	Do.	
11	Hempstead, D. B	4 00	do	Collecting the revenue from customs.		
12	Snelling, Walter C	4 00	do	do	Sec. 2605, Rev. Stats.	
13	Hurst, Sam P	3 00	do	do	Sec. 2606, Rev. Stats.	

Employés of the Treasury Department not specifically provided for, &c.—Continued.

Number.	Name.	Salary per diem.	Occupation.	Paid from appropriation for—	Authority and remarks.
14	Maddox, Samuel F	$4 00	Additional inspector of customs.	Collecting the revenue from customs.	Sec. 2606, Rev. Stats.
15	Crossland, Allen D	4 00	do	do	Do.
16	Gleaves, Richard H	4 00	do	do	Do.
17	Szabad, Emeric	4 00	do	do	Do.
18	Spaulding, B. J	4 00	do	do	Do.
19	Alexander, W. V	4 00	do	do	Sec. 2605, Rev. Stats.
20	Dodge, James A	4 00	do	do	Do.
21	Howell, W. T	4 00	do	do	Do.
22	Hertzog, O. G	4 00	do	do	Do.
23	Eaton, Henry L	4 00	do	do	Do.
24	Hawkes, Henry F	3 00	do	do	Do.
25	Silva, V. M. C	4 00	do	do	Do.
26	Godwin, W. N. I	4 00	do	do	Sec. 2606, Rev. Stats.
27	Simonton, T. R	4 00	do	do	Sec. 2605, Rev. Stats.
	Law, James	10 00*	Cattle commissioner.	Inspection of neat cattle shipped to foreign ports.	Sundry civil expenses for 1882.
	Sanders, James H	10 00*	do	do	Do.
	Thayer, E. F	10 00*	do	do	Do.

And letters of Sec. of Treas'y.

* When employed.

Employés paid from the appropriation for the pay of custodians and janitors of public buildings under the control of the Treasury Department.

No.	Name and occupation.	Salary.	Building.	Place.	Authority and remarks.
		Per annum.			
1	William F. McCloon, janitor	$500 00	Custom-house	Bath, Me	Letter of Secretary of Treasury, Sept. 10, 1877.
2	William F. Patterson, janitor	500 00	do	Bangor, Me	Do.
3	Charles H. Wording, janitor	400 00	do	Belfast, Me	Letter of Secretary of Treasury, July 31, 1871.
4	Frank S. Perkins, janitor	360 00	do	Castine, Me	Letter of Secretary of Treasury, Sept. 30, 1873.
5	Robert F. Parker, janitor	360 00	do	Eastport, Me	Letter of Secretary of Treasury, Mar. 23, 1878.
6	Lorenzo D. Carver, janitor	600 00	Custom-house and post-office	Rockland, Me	Letter of Secretary of Treasury, Mar. 24, 1880.
7	Orison Call, janitor	360 00	Custom-house	Ellsworth, Me	Letter of Secretary of Treasury, May 14, 1878.
8	Eben Albee, janitor	350 00	do	Machias, Me	Letter of Secretary of Treasury, Mar. 29, 1873.
9	Thomas McCleery, janitor	700 00	do	Portland, Me	Letter of Secretary of Treasury, Sept. 10, 1877.
10	Henry Doane, janitor	700 00	do	do	Letter of Secretary of Treasury, Dec. 8, 1877.
11	John W. Palmer, janitor	240 00	do	Waldoborough, Me	Letter of Secretary of Treasury, Apr. 23, 1881.
12	Charles E. Emerson, janitor	360 00	do	Wiscasset, Me	Letter of Secretary of Treasury, June 25, 1881.
13	Edwin H. Leslie, janitor	540 00	do	Portsmouth, N. H	Letter of Secretary of Treasury, Sept. 10, 1877.
14	Joseph F. Moore, assistant janitor	450 00	do	do	Letter of Secretary of Treasury, Mar. 15, 1880. (Apr. 1 to Oct. 31 each year.)
15	Oliver Lamora, janitor	600 00	do	Burlington, Vt	Letter of Secretary of Treasury, Oct. 29, 1877.
16	Edward S. McClure, janitor	540 00	Court-house	Rutland, Vt	Letter of Secretary of Treasury, June 18, 1880.
17	George F. Savage, janitor	360 00	do	Windsor, Vt	Letter of Secretary of Treasury, June 15, 1877.
18	James N. Clark, janitor	1,000 00	Custom-house	Boston, Mass	Letter of Secretary of Treasury, Apr. 17, 1880.
19	J. H. Parker, janitor	600 00	do	do	Letter of Secretary of Treasury, Aug. 20, 1878.
20	James Cummings, janitor	700 00	Court-house	do	Letter of Secretary of Treasury, Sept. 10, 1877.
21	Arthur A. Shaw, janitor	1,400 00	Post-office	do	Letter of Secretary of Treasury, Nov. 18, 1879.
22	William R. Badger, janitor	800 00	do	do	Letter of Secretary of Treasury, July 11, 1881.
23	Henry W. Boutwell, janitor	600 00	Post-office and sub-treasury	do	Letter of Secretary of Treasury, Jan. 30, 1880.
24	George S. Wood, janitor	600 00	do	do	Letter of Secretary of Treasury, Oct. 24, 1881.
25	Thomas J. Hinckley, janitor	350 00	Custom-house	Barnstable, Mass	Letter of Secretary of Treasury, Apr. 25, 1876.
26	Edward McQuinn, janitor	500 00	do	Gloucester, Mass	Letter of Secretary of Treasury, July 19, 1875.
27	Charles M. Stubbs, janitor	600 00	do	New Bedford, Mass	Letter of Secretary of Treasury, Sept, 11, 1877.
28	John D. Parsons, janitor	540 00	do	Newburyport, Mass	Do.
29	Thomas Wiseman, janitor	600 00	do	Fall River, Mass	Letter of Secretary of Treasury, Feb. 24, 1881. (May 1 to Oct. 31, each year.)
30	Samuel Odell, janitor	540 00	do	Salem, Mass	Letter of Secretary of Treasury, Sept, 11, 1877.
31	A. G. Bennett, janitor	900 00	do	Providence, R. I	Letter of Secretary of Treasury, Dec. 5, 1870.
32	Charles S. Rice, janitor	600 00	do	Newport, R. I	Letter of Secretary of Treasury, Mar. 21, 1877.
33	William H. Mann, janitor	240 00	do	Bristol, R. I	Letter of Secretary of Treasury, June 29, 1871.
34	George S. Loveland, janitor	500 00	do	New Haven, Conn	Letter of Secretary of Treasury, Sept. 11, 1877.
35	Anthony Jerome, janitor	600 00	do	New London, Conn	Letter of Secretary of Treasury, July 10, 1871.
36	George S. Parmalee, janitor	500 00	do	Middletown, Conn	Letter of Secretary of Treasury, June 28, 1871.
37	Edward Witt, janitor	600 00	do	Buffalo, N. Y	Letter of Secretary of Treasury, Dec. 27, 1880.
38	George Hillier, superintendent of building	2,000 00	do	New York, N. Y	Letter of Secretary of Treasury, Sept. 10, 1877.
39	Louisa Chester, cleaner	360 00	do	do	Letter of Secretary of Treasury, Mar. 27, 1881.
40	Henry T. Boyle, janitor	600 00	Sub-treasury	do	Letter of Secretary of Treasury, Aug. 2, 1876.
41	Edwin C. Newcomb, janitor	600 00	do	do	Letter of Secretary of Treasury, June 3, 1881.
42	Thomas G. Seeley, janitor	600 00	do	do	Letter of Secretary of Treasury, Aug. 2, 1876.

43	William J. Stewart, janitor	600 00	do	do	Letter of Secretary of Treasury, Oct. 15, 1877.
44	James McAfee, assistant custodian	2,200 00	Court-house and post-office	do	Letter of Secretary of Treasury, Jan. 29, 1878.
45	Eben R. Sampson, assistant custodian	1,200 00	do	do	Letter of Secretary of Treasury, Feb. 13, 1882.
46	James De Mott, janitor	720 00	do	do	Letter of Secretary of Treasury, Jan. 6, 1881.
47	James Duke, janitor	720 00	do	do	Letter of Secretary of Treasury, Feb. 14, 1882.
48	Moses Manheimer, janitor	600 00	do	do	Letter of Secretary of Treasury, Aug. 2. 1881.
49	William J. Cummisky, janitor	500 00	Custom-house	Ogdensburg, N. Y	Letter of Secretary of Treasury, Aug. 2, 1876.
50	Adolphus Cavillier, janitor	450 00	do	Oswego, N. Y	Letter of Secretary of Treasury, Dec. 26, 1877.
51	James Cuddy, janitor	480 00	do	Plattsburg, N. Y	Letter of Secretary of Treasury, May 12, 1876.
52	Edwin D. Pratt, janitor	720 00	do	Suspension Bridge, N. Y	Letter of Secretary of Treasury, July 21, 1881. (June 1 to October 31, each year.)
53	Andrew W. McIntire, janitor	700 00	do	Newark, N. J	Letter of Secretary of Treasury, Nov. 19, 1877.
54	John W. Stringham, janitor	600 00	Court-house and post-office	Jersey City, N. J	Letter of Secretary of Treasury, Dec. 19, 1881.
55	James Murphy, janitor	720 00	do	Trenton, N. J	Letter of Secretary of Treasury, Sept. 18, 1877.
56	Samuel Cooley, janitor	600 00	Custom-house	Pittsburgh, Pa	Letter of Secretary of Treasury, May 6, 1881.
57	Robert Hamilton, janitor	600 00	do	do	Letter of Secretary of Treasury, Aug. 2, 1876.
58	Florence Lynch, janitor	600 00	do	Erie, Pa	Letter of Secretary of Treasury, Sept. 3, 1878.
59	Alex. F. Nichols, janitor	840 00	do	Philadelphia, Pa	Letter of Secretary of Treasury, Sept. 10, 1877.
60	Christian Karst, janitor	720 00	do	do	Letter of Secretary of Treasury, July 30, 1879.
61	Charles A. Souder, janitor	840 00	Public stores	do	Letter of Secretary of Treasury, Oct. 2, 1877.
62	Joseph N. Croak, assistant janitor	720 00	do	do	Letter of Secretary of Treasury, May 23, 1879.
63	George W. Pastor, janitor	700 00	Court-house and post-office	do	Letter of Secretary of Treasury, July 9, 1881.
64	George T. Burrell, janitor	500 00	do	do	Letter of Secretary of Treasury, Aug. 2, 1877.
65	Robert M. Adger, assistant janitor	600 00	do	do	Letter of Secretary of Treasury, Oct. 14, 1881.
66	William Grinnage, janitor	500 00	Custom-house	Wilmington, Del	Letter of Secretary of Treasury, May 20, 1876.
67	Edwin T. Daneker, assistant custodian	1,200 00	do	Baltimore, Md	Letter of Secretary of Treasury, Nov. 24, 1880.
68	James W. Sank, janitor	720 00	do	do	Letter of Secretary of Treasury, Mar. 10, 1881.
69	William Miller, janitor	500 00	do	Alexandria, Va	Letter of Secretary of Treasury, July 23, 1881.
70	A. A. Portlock, janitor	720 00	do	Norfolk, Va	Letter of Secretary of Treasury, Mar. 2, 1875.
71	John T. Harris, janitor	600 00	do	do	Letter of Secretary of Treasury, July 3, 1879.
72	Richard Townes, janitor	600 00	do	Petersburg, Va	Letter of Secretary of Treasury, Nov. 9, 1881.
73	Lewis Lindsey, janitor	700 00	do	Richmond, Va	Letter of Secretary of Treasury, Feb. 20, 1882.
74	Frederick Miller, janitor	600 00	do	Wheeling, W. Va	Letter of Secretary of Treasury, April 5, 1881. (May 1 to October 31, each year.)
75	G. W. Taggart, janitor	700 00	Court-house and post-office	Parkersburg, W. Va	Letter of Secretary of Treasury, May 20, 1880. (June 1 to October 31, each year).
76	Joseph C. Beckett, janitor	420 00	Custom-house	Georgetown, D. C	Letter of Secretary of Treasury, Mar. 31, 1881.
77	Stewart Ellison, janitor	900 00	Court-house and post-office	Raleigh, N. C	Letter of Secretary of Treasury, July 13, 1881.
78	A. J. Haywood, janitor	300 00	do	do	Letter of Secretary of Treasury, July 23, 1880.
79	William D. Cowles, janitor	360 00	Branch mint	Charlotte, N. C	Letter of Secretary of Treasury, July 31, 1879.
80	Frederick Miller, janitor	600 00	Custom-house	Wilmington, N. C	Letter of Secretary of Treasury, Sept. 11, 1877.
81	William R. Herron, janitor	720 00	do	Charleston, S. C	Letter of Secretary of Treasury, May 31, 1879.
82	J. L. Harrison, assistant janitor	360 00	Court-house	do	Letter of Secretary of Treasury, June 10, 1881.
83	E. C. Tucker, assistant janitor	360 00	do	do	Do.
84	Daniel R. Rouse, assistant janitor	360 00	do	do	Letter of Secretary of Treasury, Sept. 9, 1881.
85	Toby Glymph, janitor	500 00	Court-house and post-office	Columbia, S. C	Letter of Secretary of Treasury, Nov. 25, 1876.
86	James C. Monroe, janitor	700 00	Custom-house	Savannah, Ga	Letter of Secretary of Treasury, Jan. 27, 1881.
87	Stephen Gaines, janitor	600 00	Court-house and post-office	Atlanta, Ga	Letter of Secretary of Treasury, Oct. 30, 1880.
88	Jeremiah Pent, janitor	500 00	Custom-house	Key West, Fla	Letter of Secretary of Treasury, July 11, 1871.
89	Evigan Edwards, janitor	500 00	do	Pensacola, Fla	Letter of Secretary of Treasury, Jan. 5, 1880.
90	Randall Coleman, janitor	500 00	do	Mobile, Ala	Letter of Secretary of Treasury, Feb. 2, 1878.
91	Charles P. Bland, janitor	500 00	do	do	Letter of Secretary of Treasury, Aug. 10, 1880.

Employés paid from the appropriation for the pay of custodians and janitors of public buildings, &c.—Continued.

No.	Name and occupation.	Salary.	Building.	Place.	Authority and remarks.
		Per annum.			
92	Lewis McKenzie, janitor	$500 00	Custom-house	Mobile, Ala	Letter of Secretary of Treasury, Nov. 18, 1881.
93	C. F. Ladd, janitor	1,000 00	do	New Orleans, La	Letter of Secretary of Treasury, Aug. 13, 1877.
94	William Carter, assistant janitor	420 00	do	do	Letter of Secretary of Treasury, July 1, 1881.
95	Joseph Dias, assistant janitor	420 00	do	do	Do.
96	Samuel D. Hale, assistant janitor	420 00	do	do	Do.
97	Benjamin James, assistant janitor	420 00	do	do	Do.
98	H. C. Nicholls, assistant janitor	420 00	do	do	Do.
99	Richard Pickett, assistant janitor	420 00	do	do	Do.
100	John C. Miller, assistant janitor	420 00	do	do	Do.
101	Joseph Tureaud, assistant janitor	420 00	do	do	Do.
					(April 1 to October 31, in each year.)
102	George B. Galusha, janitor	600 00	Court-house and post-office	Austin, Tex	Letter of Secretary of Treasury, Sept. 16, 1881.
103	Robert Winston, janitor	600 00	Custom-house	Galveston, Tex	Letter of Secretary of Treasury, Sept. 13, 1879.
104	D. L. McNamee, janitor	600 00	do	Louisville, Ky	Letter of Secretary of Treasury, June 5, 1876.
105	James M. Namee, assistant janitor	450 00	do	do	Letter of Secretary of Treasury, June 14, 1873.
106	John Cullom, janitor	720 00	Court-house and post-office	Covington, Ky	Letter of Secretary of Treasury, Feb. 26, 1881
107	Benjamin Maynard, janitor	600 00	do	Knoxville, Tenn	Letter of Secretary of Treasury, Nov. 9, 1880
108	Beverly Jackson, janitor	600 00	Custom-house	St. Louis, Mo	Letter of Secretary of Treasury, April 17, 1879.
109	John P. Jordan, janitor	600 00	do	do	Do.
110	John Schanke, janitor	500 00	Custom-house and post-office	Omaha, Nebr	Letter of Secretary of Treasury, Sept. 11, 1877.
111	Otto Wolff, janitor	480 00	do	do	Letter of Secretary of Treasury, Aug. 3, 1881.
112	Thomas J. Hill, janitor	600 00	Court-house and post-office	Lincoln, Nebr	Letter of Secretary of Treasury, Jan. 15, 1879.
113	William W. Hill, assistant janitor	400 00	do	do	Letter of Secretary of Treasury, Mar. 7, 1882.
114	James A. Harden, janitor	720 00	Custom-house	Cleveland, Ohio	Letter of Secretary of Treasury, Feb. 18, 1874.
115	William E. Beeken, janitor	600 00	do	Sandusky, Ohio	Letter of Secretary of Treasury, July 7, 1879.
116	Thomas Taylor, janitor	400 00	do	Cincinnati, Ohio	Letter of Secretary of Treasury, June 11, 1880.
117	Henry Harris, janitor	300 00	do	Toledo, Ohio	Letter of Secretary of Treasury, Feb. 28, 1876.
118	Ferguson Hartwell, assistant janitor	500 00	Court-house and post-office	Little Rock, Ark	Letter of Secretary of Treasury, Aug. 3, 1881.
119	Frank Hall, janitor	900 00	Court-house	Indianapolis, Ind	Letter of Secretary of Treasury, Dec. 5, 1881.
120	John C. Dickham, janitor	900 00	Custom-house	Evansville, Ind	Letter of Secretary of Treasury, June 30, 1879.
121	David M. Graham, assistant janitor	600 00	do	do	Letter of Secretary of Treasury, April 13, 1881.
					(May 15 to October 1, each year.)
122	Allston Shorter, assistant janitor	600 00	do	do	Letter of Secretary of Treasury, May 7, 1881.
123	Lucius H. Drury, assistant custodian	1,400 00	do	Chicago, Ill	Letter of Secretary of Treasury, Dec. 7, 1881.
124	Joshua Burr, janitor	1,200 00	do	do	Do.
125	Charles W. Smith, assistant janitor	600 00	do	do	Letter of Secretary of Treasury, May 10, 1881.
126	Joseph Brittain, assistant janitor	600 00	do	do	Letter of Secretary of Treasury, July 20, 1880.
127	Enos Bond, assistant janitor	600 00	do	do	Letter of Secretary of Treasury, Oct. 16, 1880.
128	Thomas H. Smith, assistant janitor	600 00	do	do	Letter of Secretary of Treasury, Oct. 23, 1880.
129	John Burke, janitor	600 00	do	Milwaukee, Wis	Letter of Secretary of Treasury, Sept. 11, 1877.
130	John H. McFarland, janitor	600 00	Court-house and post-office	Madison, Wis	Letter of Secretary of Treasury, June 29, 1871.
131	Alexander Menzies, janitor	900 00	Custom-house and post-office	St. Paul, Minn	Letter of Secretary of Treasury, Jan. 26, 1880.
132	James Edwards, janitor	600 00	do	do	Letter of Secretary of Treasury, Mar. 3, 1877.
133	O. C. Wood, janitor	600 00	Custom-house	Detroit, Mich	Letter of Secretary of Treasury, Apr. 18, 1879.

134	Richard Bush, janitor	500 00	do	do	Letter of Secretary of Treasury, Apr. 12, 1879.
135	Anthony DeHeus, janitor	600 00	Court-house and post-office	Grand Rapids, Mich	Letter of Secretary of Treasury, Feb. 3, 1880. (May 1 to September 30, each year).
136	Charles D. Blakeslee, janitor	730 00	do	do	Letter of Secretary of Treasury, Sept. 13, 1879.
137	Patrick Burke, janitor	500 00	do	Des Moines, Iowa	Letter of Secretary of Treasury, Aug. 2, 1876.
138	Benjamin Rupert, janitor	600 00	Custom-house	Dubuque, Iowa	Letter of Secretary of Treasury, May 19, 1880.
139	Michael McMahon, janitor	900 00	do	Portland, Oreg	Letter of Secretary of Treasury, Sept. 22, 1880.
140	Allen Flowers, assistant janitor	540 00	do	do	Letter of Secretary of Treasury, Aug. 14, 1880.
141	William Phillips, janitor	600 00	Court-house and post-office	Springfield, Ill	Letter of Secretary of Treasury, Apr. 12, 1879.
142	William McCandre, janitor	500 00	Custom-house	Cairo, Ill	Letter of Secretary of Treasury, Sept. 11, 1879.
143	Barney Norris, janitor	360 00	do	Galena, Ill	Letter of Secretary of Treasury, Mar. 18, 1881.
144	Daniel Walsh, janitor	840 00	do	San Francisco, Cal	Letter of Secretary of Treasury, Sept. 11, 1877.
145	Dennis Lynch, janitor	1,200 00	Appraisers' stores	do	Letter of Secretary of Treasury, July 10, 1880.
146	Owen Jones, janitor	900 00	do	do	Do.
147	Hyacinth Duffy, janitor	720 00	do	do	Letter of Secretary of Treasury, Oct. 13, 1880.
148	Henry S. Tucker, janitor	900 00	Sub-Treasury	do	Letter of Secretary of Treasury, Jan. 3, 1882.
149	Charles D. Adams, janitor	480 00	do	do	Letter of Secretary of Treasury, Nov. 1, 1881.
150	D. K. Osburn, janitor	600 00	United States marshal's office	Santa Fé, N. Mex	Letter of Secretary of Treasury, Sept. 2, 1881.

Employés of the Steamboat Inspection Service paid from appropriation for "salaries and expenses of steamboat inspectors."

No.	Name.	Salary.	Occupation.	Station.	Authority and remarks.
1	Craft, Andrew	$2,000 00	Assistant inspector of hulls	New York City	Letter of Secretary, March 16, 1875.
2	Wilmart, George W	2,000 00	do	do	Letter of Secretary, October 1, 1879.
3	Martin, Levi	2,000 00	do	do	Letter of Secretary, August 4, 1879.
4	Cauldwell, Alexander	2,000 00	Assistant inspector of boilers	do	Letter of Secretary, June 17, 1875.
5	Buckalew, O. H	2,000 00	do	do	Letter of Secretary, August 29, 1873.
6	Craig, William	2,000 00	do	do	Letter of Secretary, August 4, 1879.
7	Linker, Andrew B	1,600 00	do	Philadelphia, Pa	Letter of Secretary, March 31, 1871.
8	Sheffer, William	1,600 00	do	Baltimore, Md	Letter of Secretary, February 18, 1881.
9	Stephenson, A	1,600 00	do	Saint Louis, Mo	Letter of Secretary, June 7, 1877.
10	Scott, Frank A	1,600 00	do	Saint Paul, Minn	Letter of Secretary, April 1, 1881.
11	Batchelor, A. S	1,600 00	do	Pittsburgh, Pa	Letter of Secretary, May 7, 1872.
12	Ridgway, Charles M	1,600 00	do	Cincinnati, Ohio	Letter of Secretary, January 24, 1880.
13	Applegate, William	1,600 00	do	New Orleans, La	Letter of Secretary, December 3, 1872.
14	Cramp, Peter	1,600 00	Assistant inspector of hulls	Philadelphia, Pa	Letter of Secretary, September 18, 1878.
15	Valentine, Levi D	1,600 00	do	Baltimore, Md	Letter of Secretary, November 7, 1874.
16	Butler, James T	1,600 00	do	New Orleans, La	Letter of Secretary, September 1, 1871.
17	Cragis, Thomas R	1,200 00	Clerk	San Francisco, Cal	Letter of Secretary, March 3, 1876.
18	Smith, John H	1,200 00	do	New York City	Letter of Secretary, November 13, 1881.
19	Magill, Edward F	1,200 00	do	Philadelphia, Pa	Letter of Secretary, March 30, 1871.
20	Copeland, George A	1,200 00	do	Boston, Mass	Letter of Secretary, December 3, 1877.
21	Applegate, L. V	1,200 00	Assistant inspector of hulls	Cincinnati, Ohio	Letter of Secretary, January 24, 1880.
22	Wilson, Thomas C	1,200 00	Assistant inspector of boilers	Wheeling, W. Va	Letter of Secretary, November 5, 1870.
23	Fitzgerald, Charles R	1,200 00	Clerk	Buffalo, N. Y	Letter of Secretary, April 22, 1872.
24	Otta, Frank	1,200 00	do	New Orleans, La	Letter of Secretary, July 29, 1874.
25	McCready, Joseph R	1,200 00	do	Washington, D. C	Letter of Secretary, March 8, 1882.
26	Brady, Miss S. M	1,200 00	do	do	Do.
27	Raynolds, William F., jr	1,200 00	do	do	Letter of Secretary, March 14, 1882.
28	Ferguson, James L	1,000 00	do	Portland, Oreg	Letter of Secretary, January 4, 1882.
29	Shephard, Frank A	1,000 00	do	Albany, N. Y	Letter of Secretary, September 23, 1872.
30	Williams, Calvin G	1,000 00	do	New London, Conn	Letter of Secretary, September 18, 1880.
31	Smith, Alexander R	1,000 00	do	New York City	Letter of Secretary, November 26, 1880.
32	Jones, George W	900 00	do	Norfolk, Va	Letter of Secretary, April 1, 1881.
33	Martin, Thomas	840 00	Messenger	Washington, D. C	Letter of Secretary, April 1, 1876.

Employés paid from the appropriation for fuel, lights, and water for public buildings outside of Washington.

Name.	Occupation.	Salary.	Building.	Place.	Authority and remarks.
White, William W	Engineer	p. a. $1,200 00	Custom-house and post-office.	Baltimore, Md	Secretary of the Treasury, December 30, 1874.
Foard, H. O	Assistant engineer	p. a. 900 00	do	do	Secretary of the Treasury, December 31, 1874.
Coberth, L. H	Fireman	p. a. 900 00	do	do	Secretary of the Treasury, April 5, 1878.
Burgess, Greenbury	Laborer	p. d. 2 00	do	do	Secretary of the Treasury, August 16, 1877.
Gaines, John	do	p. d. 2 00	do	do	Secretary of the Treasury, November 28, 1881.
Hopkins, William H	do	p. d. 2 00	do	do	Secretary of the Treasury, September 17, 1881.
Wheatley, E. J	do	p. d. 2 00	do	do	Secretary of the Treasury, August 16, 1877.
Mehrling, Henry	Fireman	p. a. 600 00	Court-house	do	Do.
Matthews, G. M	Watchman	p. a. 600 00	do	do	Secretary of the Treasury, October 2, 1877.
Richardson, W. H	Laborer	p. a. 360 00	do	do	Secretary of the Treasury, October 1, 1877.
Wood, M. G	Chief engineer	p. d. 5 00	Post-office and sub-treasury.	Boston, Mass	Secretary of the Treasury, July 23, 1877.
Wheatherby, B. H	First assistant engineer	p. d. 3 00	do	do	Do.
Stone, A. H	Second assistant engineer	p. d. 3 00	do	do	Do.
Adams, Charles O	Fireman	p. d. 2 00	do	do	Do.
Brown, Charles W	do	p. d. 2 00	do	do	Do.
Freeman, C. W	do	p. d. 2 00	do	do	Do.
Brown, Ford G	Coal-passer	p. d. 1 75	do	do	Do.
Blake, John	do	p. d. 1 75	do	do	Do.
McLaughlin, Henry E	do	p. d. 1 75	do	do	Secretary of the Treasury, October 1, 1878.
Cotter, Gerald	Elevator conductor	p. d. 1 75	do	do	Secretary of the Treasury, July 23, 1878.
Ward, John D	do	p. d. 1 75	do	do	Secretary of the Treasury, July 23, 1877.
Bowen, Thomas J	do	p. d. 1 75	do	do	Secretary of the Treasury, October 22, 1881.
Coleman, M. R	Watchman	p. m. 50 00	do	do	Secretary of the Treasury, February 8, 1878.
Dyer, P. G	do	p. m. 50 00	do	do	Do.
Flynn, John	do	p. m. 50 00	do	do	Secretary of the Treasury, June 28, 1881.
Hudson, William J	do	p. m. 50 00	do	do	Secretary of the Treasury, January 22, 1878.
Linscott, Josiah	do	p. m. 50 00	do	do	Do.
Williams, Thomas	Laborer	p. d. 1 50	do	do	Secretary of the Treasury, October 22, 1881.
Buckmyer, Isaac	do	p. d. 1 50	do	do	Secretary of the Treasury, July 23, 1877.
Prendergast, Thomas	do	p. d. 1 50	do	do	Secretary of the Treasury, August 20, 1881.
Stone, George H	do	p. d. 1 50	do	do	Secretary of the Treasury, August 3, 1881.
Donahue, Catherine	Scrubber	p. d. 75	do	do	Secretary of the Treasury, July 23, 1877.
Donovan, Ellen	do	p. d. 75	do	do	Secretary of the Treasury, December 1, 1879.
Fopiani, Natalini	do	p. d. 75	do	do	Secretary of the Treasury, May 12, 1879.
Fopiani, Nellie	do	p. d. 75	do	do	Do.
McClusky, Marg	do	p. d. 75	do	do	Secretary of the Treasury, August 5, 1880.
Winn, Bridget	do	p. d. 75	do	do	Secretary of the Treasury, July 23, 1877.
Roberts, Horatio	Engineer	p. a. 1,100 00	Custom-house	do	Secretary of the Treasury, July 21, 1873.
Carr, Charles F	Assistant engineer		do	do	Do.
Lantern, Honora	Cleaner	p. m. 30 00	do	do	Secretary of the Treasury, September 1, 1878.
rowley, Timothy	Laborer	p. d. 2 00	Court-house	do	Secretary of the Treasury, February 8, 1878.
Walbridge, M. M	Chief engineer	p. d. 5 00	Custom-house and post-office.	Chicago, Ill	Secretary of the Treasury, January 28, 1882.

Employés paid from the appropriation for fuel, lights, and water, &c.—Continued.

Name.	Occupation.	Salary.		Building.	Place.	Authority and remarks.
Cass, Henry C	Assistant engineer	p. d.	$3 00	Custom-house and post-office.	Chicago, Ill	Secretary of the Treasury, March 2, 1882.
Bannister, David M	do	p. d.	3 00	do	do	Secretary of the Treasury, October 16, 1880.
Ayers, Robert	Fireman	p. d.	2 00	do	do	Secretary of the Treasury, November 19, 1880.
Berry, Louis P	do	p. d.	2 00	do	do	Secretary of the Treasury, January 3, 1881.
Brown, Alexander	do	p. d.	2 00	do	do	Do.
Crawford, Michael	do	p. d.	2 00	do	do	Secretary of the Treasury, November 19, 1880.
Degnan, John	do	p. d.	2 00	do	do	Secretary of the Treasury, September 25, 1880.
Erbe, Henry	do	p. d.	2 00	do	do	Secretary of the Treasury, October 21, 1880.
Prince, Thomas	do	p d.	2 00	do	do	Secretary of the Treasury, November 4, 1881.
Hanson, John	do	p. d.	2 00	do	do	Secretary of the Treasury, October 16, 1880.
Elliott, James S	do	p. d.	2 90	do	do	Secretary of the Treasury, December 12, 1881.
Mineter, Stephen	do	p. d.	2 00	do	do	Secretary of the Treasury, November 30, 1880.
Murray, Michael	do	p. d.	2 00	do	do	Secretary of the Treasury, September 25, 1880.
Sammonds, James A	do	p. d.	2 00	do	do	Secretary of the Treasury, January 3, 1881.
Weaver, Charles H	do	p. d.	2 00	do	do	Secretary of the Treasury, January 18, 1881.
Mattern, Henry J	Fireman, winter force, October 15, 1881, to May 15, 1882.	p. d.	2 00	do	do	Secretary of the Treasury, February 10, 1882.
Hilliard, Noble	Fireman, winter, force, October 15, 1881, to May 15, 1882.	p. d.	2 00	do	do	Secretary of the Treasury, October 1, 1881.
Baker, Fred	Fireman, winter force, October 15, 1881, to May 15, 1882.	p. d.	2 00	do	do	Do.
Scheidler, George A	Fireman, winter force, October 18, 1881, to May 15, 1882.	p. d.	2 00	do	do	Do.
Barbier, M. F	Elevator conductor	p. d.	2 00	do	do	Secretary of the Treasury, July 11, 1881.
Forger, George H	do	p. d.	2 00	do	do	Do.
Darrow, William L	do	p. d.	2 00	do	do	Secretary of the Treasury, March 4, 1882.
Wright, Samuel	do	p. d.	2 00	do	do	Secretary of the Treasury, October 16, 1880.
Howard, John	Pumpman	p. d.	2 50	do	do	Secretary of the Treasury, December 2, 1881.
Regan, John	do	p. d.	2 50	do	do	Secretary of the Treasury, September 25, 1880.
Allison, Henry	Watchman	p. m.	50 00	do	do	Secretary of the Treasury, January 3, 1881.
Cosgrove, James H	do	p. m.	50 00	do	do	Secretary of the Treasury, November 19, 1880.
Fox, Thomas D	do	p. m.	50 00	do	do	Secretary of the Treasury, January 3, 1881.
McCune, E. C	do	p. m.	50 00	do	do	Secretary of the Treasury, August 16, 1881.
Douglas, John T	do	p. m.	50 00	do	do	Secretary of the Treasury, February 25, 1882.
Graham, F	do	p. m.	50 00	do	do	Secretary of the Treasury, August 4, 1881.
High, George	do	p. m.	50 00	do	do	Secretary of the Treasury, March 16, 1881.
Robinson, W. F	do	p. m.	50 00	do	do	Secretary of the Treasury, January 3, 1881.
Benner, Milton	do	p. m.	50 00	do	do	Secretary of the Treasury, December 2, 1881.
Wilson, James	do	p. m.	50 00	do	do	Secretary of the Treasury, September 11, 1880.
Putnam, E. C	do	p. m.	50 00	do	do	Secretary of the Treasury, August 16, 1881.
Barth, Matthew	Cleaner	p. d.	1 50	do	do	Secretary of the Treasury, January 11, 1881.
Bresland, P. F	do	p. d.	1 50	do	do	Do.
Drennan, John	do	p. d.	1 50	do	do	Secretary of the Treasury, September 17, 1880.
Hill, James J	do	p. d.	1 50	do	do	Secretary of the Treasury, February 11, 1881.

Warner, John C	do	p. d.	1 50	do	do	Do.
Friggie, James	do	p. d.	1 50	do	do	Secretary of the Treasury, October 6, 1881.
15 charwomen (without	nomination) at 75 cents per day	each)		do	do	Secretary of the Treasury, January 3, 1881.
Baragwanath, H	Chief engineer	p. d.	5 00	Custom-house & post-office	New York, N. Y.	Secretary of the Treasury, August 10, 1877.
Hargrave, James	Assistant engineer	p. d.	3 50	do	do	Secretary of the Treasury, January 7, 1876.
Hine, William	do	p. d.	3 50	do	do	Secretary of the Treasury, July 1, 1881.
Hartford, H. H	Gas inspector	p. a.	720 00	do	do	Secretary of the Treasury, January 4, 1879.
Brady, Michael	Fireman, winter force, Oct. 1 to May 15.	p. d.	2 00	do	do	Secretary of the Treasury, September 21, 1881.
Cahill, Richard	Fireman	p. d.	2 00	do	do	Secretary of the Treasury, July 15, 1881.
Oakley, James C	do	p. d.	2 00	do	do	Secretary of the Treasury, January 17, 1882.
Kennavan, Patrick H	Fireman, winter force, Oct. 1 to May 15.	p. d.	2 00	do	do	Secretary of the Treasury, September 21, 1881.
Lewis, Winslow P	do	p. d.	2 00	do	do	Do.
McEvoy, M. J	Fireman	p. d.	2 00	do	do	Secretary of the Treasury, November 30, 1878.
McGuire, Francis	do	p. d.	2 00	do	do	Secretary of the Treasury, September 15, 1880.
Diedrick, Frederick	Fireman, winter force, Oct. 1 to May 15.	p. d.	2 00	do	do	Secretary of the Treasury, September 21, 1881.
Philippo, Andrew	do	p. d.	2 00	do	do	Secretary of the Treasury, January 4, 1882.
O'Connor, Patrick	Fireman	p. d.	2 00	do	do	Secretary of the Treasury, August 24, 1880.
O'Leary, Timothy	Fireman, winter force, Oct. 1 to May 15.	p. d.	2 00	do	do	Secretary of the Treasury, September 18, 1881.
Shannon, William	Fireman	p. d.	2 00	do	do	Secretary of the Treasury, October 12, 1878.
Howe, John	Fireman, winter force, Oct. 1 to May 15.	p. d.	2 00	do	do	Secretary of the Treasury, September 21, 1881.
McGrath, Matthew	do	p. d.	2 00	do	do	Do.
Campbell, Thomas	Watchman	p. d.	2 00	do	do	Secretary of the Treasury, December 31, 1878.
Clark, A. D	do	p. d.	2 00	do	do	Secretary of the Treasury, May 5, 1880.
Cosgrove, James	do	p. d.	2 00	do	do	Secretary of the Treasury, April 4, 1878.
Collister, John	do	p. d.	2 00	do	do	Secretary of the Treasury, August 6, 1879.
Dennison, T. W., jr	do	p. d.	2 00	do	do	Secretary of the Treasury, August 11, 1877.
Fisk, William H	do	p. d.	2 00	do	do	Secretary of the Treasury, September 21, 1877.
Inslee, David D	do	p. d.	2 00	do	do	Secretary of the Treasury, August 13, 1877.
McLeer, William	do	p. d.	2 00	do	do	Secretary of the Treasury, June 22, 1878.
Mullen, B. F	do	p. d.	2 00	do	do	Secretary of the Treasury, January 10, 1878.
Renfrew, William	do	p. d.	2 00	do	do	Secretary of the Treasury, February 16, 1881.
Cole, Philo	do	p. d.	2 00	do	do	Secretary of the Treasury, February 2, 1882.
Schram, Daniel K	do	p. d.	2 00	do	do	Secretary of the Treasury, July 8, 1879.
Van Valkenburg, William	do	p. d.	2 00	do	do	Secretary of the Treasury, September 20, 1877.
Van Cott, Cornelius	do	p. d.	2 00	do	do	Secretary of the Treasury, May 21, 1880.
Wannack, Robert	Foreman	p. d.	3 00	do	do	Secretary of the Treasury, August 10, 1877.
Commerford, Patrick	Cleaner	p. d.	2 00	do	do	Secretary of the Treasury, October 25, 1879.
Clark, James	do	p. d.	2 00	do	do	Secretary of the Treasury, August 11, 1877.
Clarke, Lawrence	do	p. d.	2 00	do	do	Secretary of the Treasury, March 6, 1880.
Connallon, Martin	do	p. d.	2 00	do	do	Secretary of the Treasury, August 11, 1877.
Donohue, Timothy	do	p. d.	2 00	do	do	Secretary of the Treasury, February 8, 1879.
Gotthelf, Louis	do	p. d.	2 00	do	do	Secretary of the Treasury, February 20, 1880.

Employés paid from the appropriation for fuel, lights, and water, &c.—Continued.

Name.	Occupation.	Salary.		Building.	Place.	Authority and remarks.
Kaiser, Jacob	Cleaner	p. d.	$2 00	Court-house and post-office	New York, N. Y	Secretary of the Treasury, July 1, 1881.
Kennedy, Cornelius	do	p. d.	2 00	do	do	Secretary of the Treasury, April 4, 1879.
Krueger, Henry	do	p. d.	2 00	do	do	Secretary of the Treasury, August 10, 1877.
Lindenfelser, Charles	do	p. d.	2 00	do	do	Secretary of the Treasury, December 24, 1878.
Martin, Christ	do	p. d.	2 25	do	do	Secretary of the Treasury, August 11, 1877.
McCusker, Joseph	do	p. d.	2 00	do	do	Secretary of the Treasury, August 13, 1877.
McGinnis, John	do	p. d.	2 00	do	do	Secretary of the Treasury, July 1, 1881.
McCoy, George W	do	p. d.	2 00	do	do	Secretary of the Treasury, January 7, 1880.
Noonan, Arthur	do	p. d.	2 00	do	do	Secretary of the Treasury, July 7, 1881.
Potts, John	do	p. d.	2 00	do	do	Secretary of the Treasury, October 10, 1878.
Morris, Charles H	do	p. d.	2 00	do	do	Secretary of the Treasury, November 17, 1881.
Tilyon, Henry T	do	p. d.	2 00	do	do	Secretary of the Treasury, April 1, 1880.
Russell, John	do	p. d.	2 00	do	do	Secretary of the Treasury, September 5, 1881.
Polland, William	do	p. d.	2 00	do	do	Do.
Ryan, Bridget	do	p. d.	1 00	do	do	Secretary of the Treasury, October 30, 1877.
Sniffin, W. P	Messenger	p. d.	2 00	do	do	Secretary of the Treasury, May 31, 1879.
Elliott, John	Elevator conductor	p. d.	2 00	do	do	Secretary of the Treasury, January 5, 1881.
Finnen, Richard	do	p. d.	2 00	do	do	Secretary of the Treasury, October 10, 1878.
Hampe, Emil	do	p. d.	2 00	do	do	Secretary of the Treasury, February 16, 1880.
Moore, William	do	p. d.	2 00	do	do	Secretary of the Treasury, July 6, 1880.
Golden, George	do	p. d.	2 00	do	do	Secretary of the Treasury, January 5, 1882.
Norris, S. R	Ass't engineer until Apr. 15, 1882	p. m.	70 00	United States subtreasury	do	Secretary of the Treasury, January 23, 1882.
English, Margaret	Cleaner	p. d.	1 12½	do	do	Secretary of the Treasury, October 26, 1877.
Gardner, Mary A	do	p. d.	1 12½	do	do	Do.
Johnson, Mary	do	p. d.	1 12½	do	do	Do.
McCormack, Ann	do	p. d.	1 12½	do	do	Do.
Nixon, Rosannah	do	p. d.	1 12½	do	do	Do.
Rouse, Rosannah	do	p. d.	1 12½	do	do	Do.
Williams, Roberta	do	p. d.	1 12½	do	do	Do.
Collier, Andrew J	Chief engineer	p. a.	1,000 00	United States custom-house	New Orleans, La	Secretary of the Treasury, October 3, 1879.
Filson, James D	Assistant engineer	p. a.	900 00	do	do	Secretary of the Treasury, January 1, 1880.
Loving, Parker	Fireman	p. a.	480 00	do	do	Secretary of the Treasury, July 2, 1880.
Elmore, Oscar	do	p. a.	480 00	do	do	Secretary of the Treasury, October 11, 1881.
Wade, James W	do	p. a.	480 00	do	do	Secretary of the Treasury, November 19, 1881.
Scully, M. A	do	p. a.	480 00	do	do	Secretary of the Treasury, April 21, 1879.
Tapper, T. F. B	Engineer	p. d.	3 50	Court-house and post-office	Philadelphia, Pa	Secretary of the Treasury, August 7, 1877.
Ritchie, Joseph S	Assistant engineer	p. d.	2 75	do	do	Do.
Rice, Samuel J	Laborer, electric light	p. d.	2 75	do	do	Secretary of the Treasury, March 8, 1881.
Satterthwait, E. M	do	p. d.	2 75	do	do	Secretary of the Treasury, November 26, 1881.
Flemming, William	Fireman	p. d.	2 50	do	do	Secretary of the Treasury, May 26, 1881.
Hughes, R. N	Laborer	p. d.	2 00	do	do	Secretary of the Treasury, July 13, 1881.
Brown, Joseph	do	p. d.	2 00	do	do	Do.
Davis, Rowan	do	p. d.	1 50	do	do	Do.
Price, William H	do	p. d.	1 50	do	do	Do.
Richardson, Jacob	do	p. d.	1 50	do	do	Do.

Rutter, Peter	Fireman	p. a.	720 00	United States custom-house	do	Secretary of the Treasury, October 24, 1876.
Burns, Mary	Cleaner	p. m.	20 00	United States subtreasury	do	Secretary of the Treasury, August 1, 1879.
Miller, H. W., jr	Engineer	p.a.	1,200 00	United States appraisers' stores.	do	Secretary of the Treasury, November 1, 1879.
Black, Anthony	Assistant engineer	p. a.	900 00	do	do	Do.
Way, Charles	Cleaner	p. m.	15 00	do	do	Secretary of the Treasury, April 4, 1878.
Smith, Adam B	do	p. m.	35 00	United States subtreasury	San Francisco, Cal	Secretary of the Treasury, December 31, 1880.
Lee, D. C	do	p m.	35 00	do	do	Secretary of the Treasury, May 1, 1880.
Low, William R	Engineer	p. d.	4 00	United States appraisers' stores.	do	Secretary of the Treasury, February 2, 1880.
Falls, Thomas J	Assistant engineer	p. d.	3 00	do	do	Secretary of the Treasury, August 16, 1881.
McQuade, Anthony	do	p. d.	3 00	do	do	Secretary of the Treasury, February 2, 1880.
Kennedy, E. C	Watchman	p. a.	900 00	do	do	Secretary of the Treasury, July 1, 1880.
Wilson, Charles	do	p. a.	900 00	do	do	Secretary of the Treasury, July 15, 1881.
Dodge, Oliver N	Cleaner	p. d.	2 50	do	do	Secretary of the Treasury, September 3, 1880.
McGee, James B	do	p. d.	2 50	do	do	Secretary of the Treasury, February 9, 1882.
Wallace, Charles D	do	p. d.	2 50	do	do	Secretary of the Treasury, January 13, 1882.
Fletcher, Barney	Laborer	p. d.	2 50	do	do	Secretary of the Treasury, November 8, 1880.
O'Neill, William H	do	p. d.	2 50	do	do	Do.
Bradford, Mrs. Ada	Elevator tender	p. d.	2 50	do	do	Secretary of the Treasury, September 28, 1881.
Williams, Thomas T	Fireman and watchman	p. m.	30 00	Custom-house	Alexandria, Va	Secretary of the Treasury, November 3, 1881.
Edwards, J. R	Engineer, Oct. 1 to May 1 each year.	p. a.	900 00	Court-house and post-office	Atlanta, Ga	Secretary of the Treasury, October 16, 1880.
Kenney, Raphael	Watchman	p. m.	50 00	do	do	Secretary of the Treasury, July 24, 1880.
Hampton, George	Laborer; fireman from Oct. 1 to May 1 each year.	p. m.	30 00	do	do	Secretary of the Treasury, August 16, 1881.
Hampton, Harrison	Laborer until May 1, 1882	p. m.	30 00	do	do	Secretary of the Treasury, December 9, 1881.
Duncan, Samuel	Cleaner	p. a.	720 00	Custom-house	Astoria, Oreg	Secretary of the Treasury, December 31, 1878.
Galusha, Thomas B	Fireman, Nov. 1, 1881, to Mar. 31, 1882.	p. a.	600 00	Court-house and post-office	Austin, Tex	Secretary of the Treasury, October 1, 1881.
Cates, Benjamin A	Fireman, Nov. 1, 1881, to Apr. 30, 1882.	p. d.	1 50	Custom-house	Bangor, Me	Secretary of the Treasury, November 2, 1881.
Wannenmaker, Sebastian	Fireman	p. m.	50 00	do	Buffalo, N. Y	Secretary of the Treasury, August 5, 1881.
Jackson, Henry	Laborer	p. d.	1 75	do	do	Secretary of the Treasury, December 20, 1880.
Nesbitt, John N	Night watchman	p. m.	45 00	U. S. post-office	Charleston, S. C	Secretary of the Treasury, October 7, 1881.
James, Edward H	Engineer	p. m.	60 00	Court-house and post-office	Covington, Ky	Secretary of the Treasury, August 20, 1881.
Cross, Richard D	Laborer	p. m.	60 00	do	do	Do.
Riedel, Frank	Fireman, from Oct. 1 to May 15 of each year.	p. m.	50 00	Cus'm-house and post-office	Cincinnati, Ohio	Secretary of the Treasury, December 18, 1877.
Price, Charles	do	p. m.	50 00	do	do	Secretary of the Treasury, March 3, 1882.
Telley, James M	Fireman	p. d.	1 75	do	Cleveland, Ohio	Secretary of the Treasury, May 14, 1876.
Thornton, Henry	do	p. d.	2 00	do	Cairo, Ill	Secretary of the Treasury, October 8, 1876.
Holland, G. H	Night watchman	p. a.	540 00	Cus'm-house and post-office	Columbia, S. C	Secretary of the Treasury, April 30, 1879.
Lopez, John F	Engineer and fireman, Oct. 1 to Apr. 30, each year.	p. m.	50 00	do	do	Secretary of the Treasury, September 19, 1879.
Millis, William H	Engineer	p. d.	1 50	Post-office, &c	Dover, Del	Secretary of the Treasury, March 24, 1878.
Everett, Edw. P	Chief engineer, Nov. 1 to May 15	p. d.	2 50	Custom-house	Detroit, Mich	Secretary of the Treasury, October 28, 1879.
Frankford, Henry	Assistant engineer, Nov. 1 to Mar. 31.	p. d.	2 00	do	do	Secretary of the Treasury, November 26, 1881.
Tiernan, Patrick	Fireman	p. d.	1 75	Court-house and post-office	Des Moines, Iowa	Secretary of the Treasury, January 23, 1882.
Burrows, Charles	Watchman	p. m.	50 00	Custom-house	Evansville, Ind	Secretary of the Treasury, June 30, 1881.

Employés paid from the appropriation for fuel, lights, and water, &c.—Continued.

Name.	Occupation.	Salary.	Building.	Place.	Authority and remarks.
Shorter, Allston	Engineer and fireman, Oct. 1 to May 15.	p. m. $60 00	Custom-house	Evansville, Ind	Secretary of the Treasury, November 17, 1879.
Wiseman, Thomas	Engineer, Nov. 1 to Apr. 30	p. a. 600 00	do	Fall River, Mass	Secretary of the Treasury, August 16, 1881.
Gifford, Asa W	Watchman	p. d. 1 50	do	do	Secretary of the Treasury, November 21, 1881.
Manchester, William Y	Engineer, for 7 months	p. d. 1 50	do	do	Secretary of the Treasury, November 1, 1881.
Blakesley, Charles D	Engineer, Oct. 1 to Apr. 30	p. a. 730 00	Court-house and post-office	Grand Rapids, Mich	Secretary of the Treasury, September 13, 1879.
Lang, Frederick	Watchman	p. a. 720 00	do	Indianapolis, Ind	Secretary of the Treasury, February 8, 1878.
Meyer, Anton	Laborer	p. a. 600 00	do	do	Secretary of the Treasury, October 20, 1875.
Smith, Henry W	do	p. a. 600 00	do	do	Secretary of the Treasury, August 13, 1881.
Stewart, John W	do	p. a. 600 00	do	do	Secretary of the Treasury, September 20, 1880.
Cahill, John	Engineer	p. a. 900 00	do	do	Secretary of the Treasury, October 18, 1881.
Nixon, John	do	p. d. 2 00	Post-office	Jersey City, N. J	Secretary of the Treasury, July 27, 1877.
Francis, Joseph B	Watchman	p. a. 600 00	do	do	Secretary of the Treasury, January 7, 1880.
McMahon, Sarah	Cleaner	p. a. 300 00	do	do	Do.
Fox, John G	Engineer and fireman, Sept. 1 to Apr. 30.	p. m. 75 00	Custom-house	Knoxville, Tenn	Secretary of the Treasury, September 3, 1880.
Royce, S. S	Engineer	p. a. 1,000 00	Court-house and post-office	Lincoln, Nebr	Secretary of the Treasury, January 5, 1882.
Hanson, Niels	Fireman, Sept. 15 to Apr. 30	p. d. 2 00	do	do	Secretary of the Treasury, April 13, 1880.
Masterman, Henry	Watchman	p. m. 50 00	do	do	Secretary of the Treasury, March 7, 1882.
Trainor, Thomas W	Engineer	p. a. 900 00	do	Little Rock, Ark	Secretary of the Treasury, August 3, 1881.
Ditsler, John E	Engineer and fireman, Nov. 1 to June 30, each year.	p. m. 75 00	Custom-house	Louisville, Ky	Secretary of the Treasury, December 5, 1881.
Niman, John	Assistant engineer and fireman, Nov. 1 to June 30, each year.	p. m. 50 00	do	do	Secretary of the Treasury, December 12, 1881.
Rankin, William	Elevator conductor	p. m. 30 00	do	do	Secretary of the Treasury, July 12, 1876.
Longfield, John J	Fireman, Nov. 1 to Mar. 31, each year.	p. m. 50 00	Court-house and post-office	Madison, Wis	Secretary of the Treasury, October 23, 1879.
Foley, William	Engineer, Oct. 1 to May 30, each year.	p. d. 2 00	Custom-house	Milwaukee, Wis	Secretary of the Treasury, March 4, 1882.
Smith, Henry E	Fireman, Oct. 1 to June 1, each year.	p. d. 2 50	do	New Haven, Conn	Secretary of the Treasury, January 30, 1880.
Lahey, Michael	Fireman	p. a. 1,000 00	Custom-house	Omaha, Neb	Secretary of the Treasury, October 5, 1875.
Taggart, G. W	Engineer, Nov. 1 to May 31, each year.	p. m. 75 00	Court-house and post-office	Parkersburg, W. Va	Secretary of the Treasury, November 28, 1881.
Flaherty, Patrick	Watchman	p. a. 300 00	do	do	Secretary of the Treasury, November 11, 1881.
McClelland, J. H	Engineer, Nov. 1 to Apr. 30, each year.	p. d. 2 00	Custom-house	Pittsburgh, Pa	Secretary of the Treasury, November 26, 1881.
Asky, John	Night watchman	p. d. 2 00	do	do	Secretary of the Treasury, December 16, 1881.
Lewis, Charles W	Assistant engineer, Nov. 1 to Apr. 30, each year.	p. d. 1 50	do	do	Secretary of the Treasury, January 13, 1879.
Moore, Joseph F	Fireman, Nov. 1 to Mar. 31, each year.	p. a. 450 00	do	Portsmouth, N. H	Secretary of the Treasury, March 15, 1880.
Cline, Henry	Engineer	p. a. 720 00	do	Port Huron, Mich	Secretary of the Treasury, February 8, 1878.
Miller, Edward	Laborer	p. d. 1 50	do	do	Secretary of the Treasury, August 7, 1878.

Young, Henry	Engineer	p. a.	720 00	do	do	Secretary of the Treasury, January 17, 1881.
Ryan, J. W	Watchman	p. m.	100 00	do	Portland, Oreg	Secretary of the Treasury, May 17, 1879.
Ball, Chauncey	Engineer and fireman, Nov. 1 to May 31, each year.	p. m.	100 00	do	do	Secretary of the Treasury, October 1, 1879.
Prince, L. M	Fireman, Oct. 1 to May 31, each year.	p. d.	3 00	do	Portland, Me	Secretary of the Treasury, October 28, 1880.
Rendall, Isaiah	Fireman	p. d.	3 00	Court-house and post-office	do	Secretary of the Treasury, September 17, 1877.
Townsend, R	Laborer	p. d.	2 00	do	do	Secretary of the Treasury, February 8, 1878.
White, William W	Engineer and fireman, Oct. 1 to May 31, each year.	p. a.	600 00	do	Raleigh, N. C	Secretary of the Treasury, October 24, 1878.
Doyle, James	Watchman	p. m.	50 00	do	do	Do.
Gorham, Arthur L	Laborer	p. m.	30 00	do	do	Do.
McAleavey, Peter	Engineer and fireman	p. m.	75 00	Custom-house	Richmond, Va	Secretary of the Treasury, July 13, 1880.
Waters, John A	Fireman, Nov. 15 to Apr. 15, each year.	p. d.	2 00	do	do	Secretary of the Treasury, December 13, 1877.
Davis, Joseph W	Fireman and laborer, Nov. 1 to June 30, each year.	p. m.	30 00	do	Savannah, Ga	Secretary of the Treasury, November 1, 1881.
Young, J. W	Engineer and fireman	p. a.	600 00	Court-house and post-office	Springfield, Ill	Secretary of the Treasury, May 31, 1879.
Robinson, A. R	Watchman	p. m.	50 00	do	do	Secretary of the Treasury, August 25, 1881.
Purnhagen, H. H	Fireman, Nov. 1 to June 1, each year.	p. m.	50 00	Custom-house	Saint Paul, Minn	Secretary of the Treasury, November 3, 1881 and March 6, 1882.
Pratt, Edwin D	Engineer and fireman, Nov. 1 to May 31, each year.	p. a.	720 00	do	Suspension Bridge, N. Y.	Secretary of the Treasury, December 7, 1878.
Lee, John	Fireman, from Nov. 1 to Mar. 31, each year.	p. m.	40 00	do	Saint Louis, Mo	Secretary of the Treasury, October 17, 1881.
Gonsette, Joseph	Fireman	p. d.	40 00	do	do	Secretary of the Treasury, October 23, 1881.
Edmond, Peter J	do	p. m.	50 00	Court-house and post-office	Trenton, N. J	Secretary of the Treasury, November 16, 1881.
Wheyland, W	Watchman	p. d.	2 00	do	do	Secretary of the Treasury, August 9, 1875.
Walton, John H	Laborer	p. d.	1 25	do	do	Secretary of the Treasury, December 10, 1878.
Miller, Frederick	Fireman, Nov. 1 to Apr. 30, each year.	p. m.	60 00	Custom-house	Wheeling, W. Va	Secretary of the Treasury, December 6, 1878.

Appropriation for repairs and preservation of public buildings.

King, George T	Gas-fitter	p. d.	$3 25	Custom-house & post-office	Chicago, Ill	Secretary of the Treasury, August 16, 1881.

Appropriation for furniture and repairs.

Simonton, J. E	Cabinet-maker	p. d.	$3 50	Court-house and post-office	New York, N. Y	Secretary of the Treasury, October 1, 1878.
Stapleton, Thomas	Carpenter	p. d.	3 25	do	do	Secretary of the Treasury, May 15, 1881.
Larson, John	Cabinet-maker	p. d.	3 00	Custom-house & post-office	Chicago, Ill	Secretary of the Treasury, August 16, 1881.

TREASURY DEPARTMENT, *March* 14, 1882.

Hon. FRANK HISCOCK,
Chairman Committee on Appropriations,
House of Representatives:

SIR: As requested in your letter of the 21st ultimo, I transmit herewith a statement showing number, class, and salary of the employés of the Bureau of Engraving and Printing, not specifically provided for in the appropriation laws.

The chief of the bureau in his letter transmitting this information, says:

"In submitting this statement I beg to add that the employment of these persons depends entirely upon the amount of work to be executed from month to month, upon orders received from the Treasurer of the United States, the Comptroller of the Currency, the Commissioner of Internal Revenue, and the several officers of the Treasury and other departments of the government requiring work.

"If, therefore, this information is asked for by the Appropriation Committee as a basis for legislation, they should also be informed of the fact that, owing to fluctuations in the work, it is frequently necessary during the fiscal year to require the force of the bureau to work from one to two hours beyond the time ordinarily fixed for a working day, and at other times to furlough large numbers of them for want of work. The necessities of business are such that the demand for national-bank notes, internal-revenue stamps, checks, &c., cannot be so regulated as to give steady and uniform employment to a given number of employés in this bureau; and to provide by law for a specific number with a definite amount of pay during the fiscal year would have the effect of cramping the bureau at times, when the demand for work was urgent, by limiting its power to work beyond the hours established for an ordinary day's work and of compelling it to carry more employés than would otherwise be necessary at times when the work was slack."

The statement covering the employés of the Coast and Geodetic Survey has not yet been completed; it will be forwarded as soon as possible.

Very respectfully,

H. F. FRENCH,
Acting Secretary.

EMPLOYÉS OF THE BUREAU OF ENGRAVING AND PRINTING—TREASURY DEPARTMENT—WHO ARE NOT SPECIFICALLY PROVIDED FOR BY LAW.

Paid from the appropriation for labor and expenses of engraving and printing. Under authority of section 3575, Revised Statutes [2d ed., p. 706], and act of March 3, 1881 [Stat. at L., vol. 21, p. 438].

MISCELLANEOUS DIVISION.

	Per diem.		Per diem.
2 clerks	$5 25	1 storekeeper	$3 25
1 clerk	5 00	1 helper	2 50
5 clerks	4 00	3 inspectors	2 25
3 clerks	3 00	1 telegraph operator	2 00
2 clerks	2 50	1 messenger	2 25
7 clerks	2 00	2 chief messengers	2 00
5 clerks	1 50	5 chief messengers	1 50
1 property clerk	3 25	2 chief messengers	1 00
1 register clerk	3 25	2 guides	1 50
1 register clerk	3 00	1 laborer	1 50

ENGRAVING DIVISION.

	Per annum.		Per diem
1 superintendent	$5,000 00	1 transferer	$4 50
		1 die-sinker	5 00
	Per diem.	3 provers	5 00
1 clerk	$3 00	1 plate-cleaner	4 50
2 clerks	2 00	2 plate-cleaners	3 00
2 engravers	8 75	1 distributer of stock	3 00
1 engraver	8 00	1 apprentice	3 00
1 engraver	7 50	2 apprentices	2 50
1 engraver	6 00	1 apprentice	2 00
1 engraver	5 00	1 helper	2 50
1 engraver	4 50	1 helper	2 00
1 transferer	7 00	1 messenger	1 50
6 transferers	6 50	1 printer's assistant	1 52

WATCH DIVISION.

	Per diem.		Per diem.
1 captain	$4 00	26 watchmen	$2 25
2 lieutenants	3 00		

VAULT.

	Per diem.		Per diem.
1 vault-keeper	$6 00	2 helpers	$1 50
1 assistant vault-keeper	3 00	1 helper	2 00
1 clerk	2 00		

MACHINE DIVISION.

	Per diem.		Per diem.
1 master machinist	$6 00	1 oiler	$2 00
1 machinist	3 50	1 oil-burner	5 00
4 machinists	3 00	1 ink-maker	4 00
3 machinists	2 75	1 ink-maker	2 25
1 machinist	2 50	1 elevator attendant	1 50
1 machinist	2 25	1 helper	2 25
2 apprentices	1 60	1 helper	2 00
8 apprentices	1 00	1 helper	1 50
1 engineer	4 00	4 helpers	50
2 engineers	3 00	1 stableman	2 80
3 firemen	2 25	1 hostler	1 50
1 carpenter	3 00	1 laundry man	1 50
2 carpenters	2 50	5 laundry men	75
1 plumber	3 00	1 foreman of laborers	2 25
1 plumber	2 50	3 laborers	2 00
1 tinner	2 25	1 laborer	1 75
1 blacksmith	2 50	28 laborers	1 50

PRINTING OFFICE.

	Per diem.		Per diem.
1 superintendent of printing	$8 50	1 helper	$2 50
1 superintendent plate branch	7 00	1 helper	2 00
1 examiner	4 95	2 helpers	1 50
1 machinist	4 00	1 messenger	1 25
1 register clerk	4 00	1 messenger	1 50
3 register clerks	3 00	11 messengers	1 00
2 clerks	2 50	229 printers' assistants	1 25
1 clerk	2 00	4 substitutes	1 00
2 clerks	1 50	1 foreman blanket laundry	1 50
1 helper	3 00	5 laundry women	1 00

CLEANING DIVISION.

	Per diem.		Per diem.
3 foremen	$1 50	9 day cleaners	$1 00
6 dressing-room attendants	1 00	30 evening cleaners	75

WETTING BRANCH.

	Per diem.		Per diem.
1 foreman	$5 00	3 helpers	$2 00
1 clerk	3 00	3 helpers	1 50
1 clerk	3 50	11 helpers	1 00
3 clerks	2 00	2 helpers	50
2 assistants	3 00	1 counter	1 50

SURFACE BRANCH.

	Per diem.		Per diem.
1 clerk in charge	$4 00	1 apprentice	$2 00
1 clerk	2 50	1 apprentice	1 00
1 pressman	4 50	3 helpers	2 00
3 pressmen	4 00	2 helpers	1 50
1 pressman	3 20		

EXAMINING DIVISION.

	Per diem.		Per diem.
1 superintendent	$5 00	1 helper	$0 75
1 clerk	2 50	2 helpers	1 50
6 clerks	2 00	1 counter	1 50
1 expert	2 00	2 callers	1 25
3 clerks	1 50	4 shakers	1 50
1 helper	2 50	2 tissue hands	1 00
1 helper	2 25	3 messengers	1 00
6 helpers	2 00	1 examiner	5 00
1 helper	1 00	1 printer's assistant	1 25

NUMBERING DIVISION.

	Per diem.		Per diem.
1 superintendent	$5 00	1 clerk	$2 00
1 electrician	5 00	1 helper	3 00
1 machinist	3 00	1 helper	2 00
1 machinist	2 50	2 helpers	1 50
1 clerk	3 25	2 acting experts	2 00
2 clerks	3 00	1 packer	1 50
2 clerks	2 50	1 messenger	50

BINDING DIVISION.

	Per diem.		Per diem.
1 superintendent	$6 00	1 apprentice	$1 00
1 clerk	3 25	1 helper	2 00
2 clerks	2 00	5 helpers	1 50
1 clerk	3 50	1 helper	50
1 clerk	2 50	1 cleaner	1 25
2 binders	4 00	1 messenger	1 00
1 binder	3 20	2 counters	1 50
1 binder	3 60	1 taker out of boards	1 25
1 apprentice	2 00		

MILLIGAN PRESS.

	Per diem.		Per diem.
1 superintendent	$5 00	2 helpers	$1 50
13 printers' assistants	1 25		

PRINTING DIVISION.

	Per diem.
5 apprentices	$1 00

LEE PRESS.

	Per diem.		Per diem.
2 superintendents	$5 00	2 printers' assistants	$1 25

CUSTODIAN DIES, PLATES, ROLLS, &C.

	Per diem.		Per diem.
1 custodian	$6 50	1 clerk	$3 00
2 assistants	5 00		

381 plate-printers.....piece-rates and average.

TREASURY DEPARTMENT, *March* 17, 1882.

SIR: In addition to the information heretofore furnished in answer to your letter of the 21st ultimo, I have the honor to state that the following persons are employed in the revenue cutter service, and paid from the appropriation for expenses of said service, to wit:

Edwin Emery, employed as instructor of cadets, under authority of department letter of August 7, 1877, at a compensation of one hundred and sixty-six and $\frac{66}{100}$ dollars per month. This gentleman is employed on the school-ship at New Bedford, Mass., in the work of instructing the cadets in the academical branches of study, his services being necessary in addition to those of the officers of the vessel, who are the instructors in all branches of professional knowledge.

Mr. Charles E. Emery, consulting engineer, is employed under authority of department letter of March 4, 1872, and of April 9, 1878, at a compensation of one hundred and fifty dollars per month. His services are necessary in the designing of new steam machinery for vessels of the service and the work of repairs upon the machinery of vessels already built; also, in consultation upon the general operations of the machinery of vessels.

Mr. Rudolph Steuler, naval architect, is employed temporarily under authority of department letter of March 25, 1881, at a compensation of one hundred and twenty-five dollars per month; his services being essential to the superintendent of construction of revenue vessels in designing the hulls and preparing necessary models and specifications for new vessels and boats.

James D. Slack, with compensation at one hundred and fifty dollars per month, is employed in the office of the superintendent of construction of revenue vessels in New York, in copying specifications for vessels and bids and assisting in the correspondence regarding the construction and repairs of vessels; authority of department letter of December 21, 1881.

Robert Harris, with compensation at sixty dollars per month, and Peter Rogers, with compensation at fifty dollars per month, are employed respectively under authority of department letters of July 9, 1874, at the office in New York, in the necessary work of looking after the shipping of articles purchased at that port for revenue vessels and such other matters as are committed to the office.

Authority of law for the employment of all the foregoing is found under the clause in the annual sundry civil appropriation bill providing, under the head of revenue marine, for instruction of cadets, and labor.

Pilots and other members of the crews of revenue vessels are employed under the provision of section 2749 of the Revised Statutes. The wages of these are changed from time to time, in conformity to law, to correspond with the wages of persons employed in like capacities in the merchant marine.

Very respectfully,

CHAS. J. FOLGER,
Secretary.

Hon. FRANK HISCOCK,
Chairman of Committee on Appropriations, House of Representatives.

List of employés in the United States Coast and Geodetic Survey, &c.—Continued.

No.	Name.	Occupation.	Salary.
55	F. H. Parsons	Aid	p. m. $75 00
56	C. H. Van Orden	do	p. m. 75 00
57	Robert A. Marr	do	p. m. 75 00
58	John E. McGrath	do	p. m. 60 00
59	Isaac Winston	do	p. m. 60 00
60	Carlisle Terry, jr	do	p. m. 60 00
61	P. A. Welker	do	p. m. 75 00
62	George F. Bird	do	p. m. 50 00
63	Thomas P. Borden	do	p. m. 45 00
64	Fremont Morse	do	p. m. 75 00
65	E. L. Taney	do	p. m. 45 00
66	Samuel Hein	Librarian	1,800 00
67	W. B. Chilton	Clerk to Superintendent	p. d. 4 00
68	William B. Morgan	Disbursing agent	2,500 00
69	W. A. Herbert	Accountant	1,600 00
70	John R. Barker	Coast-pilot compiler	p. m. 125 00
71	John W. Parsons	do	p. m. 100 00
72	Marcus Baker	do	1,650 00
73	M. H. Doolittle	Computer	p. d. 5 75
74	German G. Porter	do	p. m. 115 00
75	A. S. Christie	do	p. m. 100 00
76	Henry Farquhar	do	p. m. 105 00
77	C. H. Kummell	do	p. m. 100 00
78	Charles W. Henderson	Writer	p. m. 50 00
79	R. S. Avery	Tide computer	2,000 00
80	Thomas Craig	do	p. m. 100 00
81	L. P. Shidy	do	p. m. 87 50
82	M. Thomas	do	p. m. 60 00
83	M. E. Nesbitt	Writer	p. m. 60 00
84	William B. French	Clerk to assistant in charge	p. m. 100 00
85	C. D. Gedney	Stenographer	p. m. 90 00
86	W. T. Bright	Draughtsman	2,050 00
87	A. Lindenkohl	do	2,350 00
88	L. Karcher	do	p. d. 4 00
89	P. Ericksen	do	p. d. 4 00
90	E. Molkow	do	p. d. 4 00
91	E. J. Sommer	do	p. d. 4 00
92	T. J. O'Sullivan	do	p. m. 100 00
93	Edwin H. Fowler	do	p. m. 90 00
94	A. B. Graham	do	p. m. 83 00
95	A. E. Burton	do	p. m. 83 00
96	H. Lindenkohl	do	p. m. 175 00
97	Hugo Eichholtz	do	p. d. 3 50
98	John C. Barr	Writer	1,000 00
99	E Willenbucher	Hydrographic draughtsman	2,000 00
100	Charles Junken	do	1,800 00
101	W. C. Willenbucher	do	1,200 00
102	Frank C. Donn	do	p. d. 3 83⅓
103	Ferdinand Westdahl	do	p. m. 150 00
104	E. A. Maedel	Engraver	2,000 00
105	A. Sengteller	do	1,800 00
106	H. M. Knight	do	p. d. 5 75
107	W. A. Thompson	do	p. d. 5 75
108	A. Petersen	do	p. d. 5 50
109	J. G. Thompson	do	p. d. 5 50
110	Edward H. Sipe	do	p. d. 4 50
111	William H. Davis	do	p. d. 4 25
112	Theodore Wasserbach	do	p. d. 4 25
113	A. C. Ruebsam	do	p. d. 2 25
114	Jos. Enthoffer	do	2,000 00
115	H. E. Evans	do	1,800 00
116	R. F. Bartle	do	1,500 00
117	F. Courtenay	do	1,200 00
118	Frank W. Benner	do	1,200 00
119	John H. Smoot	do	1,200 00
120	A. Zumbrock	Electrotyper and photographer	2,000 00
121	Frank Over	Helper	p. d. 3 50
122	M. W. Wines	Miscellaneous division	1,700 00
123	N. Y. Cavitt	Janitor	1,200 00
124	G. N. Saegmuller	Chief mechanician	1,700 00
125	John Clark	Instrument maker	p. d. 5 00
126	Werner Suess	do	p. d. 4 00
127	E. Eshleman	do	p. d. 3 50
128	P. Vierbuchen	do	p. d. 3 50
129	Louis Fischer	do	p. d. 1 25
130	Thomas McDonnell	Chart room	1,600 00
131	G. A Stewart	Archives	1,500 00
132	C. Abert	Writer	p. m. 75 00
133	George A. Morrison	do	p. m. 60 00
134	Charles Barton Hill	Clerk, suboffice San Francisco	p. m. 60 00
135	Vincente Denis	Janitor	p. m. 45 00
136	Frank Moon	Copper-plate printer	p. d. 5 25

List of employés in the United States Coast and Geodetic Survey, &c.—Continued.

No.	Name.	Occupation.	Salary.
137	D. N. Hoover	Copper-plate printer	p. d. $4 00
138	James Beck	do	p. d. 3 50
139	James L. Smith	do	p. d. 3 50
140	W. H. Grabenhorst	do	p. d. 2 00
141	John W. Reed	Laborer	p. d. 1 50
142	A. Yeatman	Carpenter	p. d. 5 00
143	George W. Clarvoe	Laborer	p. d. 1 25
144	R. F. Bassett	Map mounter	p. d. 3 25
145	William H. Butler	Messenger	p. d. 2 40
146	William Young	do	p. d. 2 25
147	Charles Over	do	p. d. 2 25
148	Henry McKenzie	do	p. d. 2 00
149	Charles H. Jones	do	p. d. 2 25
150	W. B. Ingram	do	p. d. 1 00
151	Hazzard McCoy	do	p. d. 2 25
152	William Savoy	do	p. d. 1 50
153	Sandy Bruce	do	p. d. 2 00
154	A. C. Whitney	Watchman	p. d. 2 45
155	H. W. Huber	do	p. d. 2 45
156	John Warren	do	p. d. 2 00
157	S. E. Flynn	Laborer	p. d. 1 00
158	Horace Dyer	do	p. d. 1 75
159	Richard Waters	Fireman	p. d. 2 00
160	E. H. Courtenay	Publishing results	1,750 00
161	William Ferrell	do	1,400 00
162	C. B. Turnbull	do	p. m. 60 00
163	Lucretia Ferrel	do	p. m. 45 00
164	Beckford Mackey	do	p. m. 60 00
165	A. M. Davies	do	p. m. 60 00
166	D. E. Porter	do	p. m. 50 00
167	R. M. Harvey	Copyist	p. m. 70 00
168	Mrs. C. L. Walker	do	p. m. 60 00
169	Mrs. C. L. Barton	do	p. m. 60 00
170	Miss S. C. Ayres	do	p. m. 45 00
171	Mrs. H. R. de Ronceray	do	p. m. 35 00
172	Miss Kate Patterson	do	p. m. 60 00
173	Mrs. E. D. Stone	do	p. m. 25 00
174	H. F. Walling	Map compiler	p. m. 150 00
175	John B. Boutelle	Extra observer	p. m. 100 00
176	W. B. Fairfield	do	p. m. 100 00
177	James J. Clark	Adjuster of weights and measures	p. d. 5 00
178	E. B. Lefavour	Verifier	p. d. 4 00
179	D. C. Chapman	Mechanician	p. d. 4 00
180	W. M. Long	Watchman	p. d. 2 45
181	M. Lauxmann	Laborer	p. d. 1 00
182	J. G. Spaulding	Tide observer	p. m. 76 00
183	J. W. Banford	do	p. m. 35 00
184	William J. Fisher	do	p. m. 100 00
185	Emmet Gray	do	p. m. 80 00
186	Jos. A. Riddick	Cook	p. m. 30 00
187	Wade Dickinson	Hand	p. m. 25 00
188	Charles Burroughs	do	p. m. 20 00
189	Edward T. Davis	do	p. m. 20 00
190	W. B. Mapes	do	p. m. 20 00
191	E. D. Preston	Computer	p. m. 100 00
192	O. H. Mitchell	do	p. m. 75 00
193	F. B. Hall	Artisan	p. m. 52 50

DEPARTMENT OF THE INTERIOR,
Washington, March 16, 1882.

SIR: In compliance with request of your committee, dated 21st ultimo, I transmit herewith a list of the officers, clerks, and other employés of this department who are paid from appropriations other than the regular appropriations for salaries in this department, showing the names, grades, and wages or pay of such persons; together with a list of clerks and other employés who are detailed under the provisions of section 166 Revised Statutes United States, exhibiting the names and salaries of said persons, and the offices to and from which they are severally detailed.

All the above-named persons are employed by authority of the Secretary of the Interior, under whose direction the law has placed the expenditure of the several appropriations named in the inclosed lists. Any further information which may be desired on the subject will be promptly furnished.

Very respectfully, &c.,

S. J. KIRKWOOD,
Secretary.

Hon. FRANK HISCOCK,
Chairman Committee on Appropriations, House of Representatives.

Names of persons employed in the Department of the Interior and paid from appropriations where there is no specific provision for salaries.

Name.	Salary.	Appropriation.
B. M. Probasco	$900 00	Contingent expenses, district land offices.
J. M. Andrews	900 00	Do.
J. Waring	900 00	Do.
A. G. Hall	900 00	Do.
H. E. Gray	900 00	Do.
M. S. Morrison	900 00	Do.
J. F. Skinkle	900 00	Do.
Wilson T. Smith	1,200 00	Do.
H. A. Wind	1,600 00	Settlement swamp land claims.
R. V. Aukeny	1,200 00	Do.
J. C. Walker	1,200 00	Do.
J. W. Childs	1,200 00	Do.
W. G. Nolen	1,200 00	Do.
James S. Waugh	1,000 00	Do.
A. H. Nelson	1,200 00	Do.
J. M. Dunn	1,500 00	Depredations on public timber.
C. C. Horton	1,400 00	Do.
W. F. Prosser	1,200 00	Do.
William G. Gregory	1,200 00	Do.
P. J. Glover	1,200 00	Do.
C. W. McCune	1,200 00	Do.
H. A. Myers	1,200 00	Do.
W. W. Wilshire	1,200 00	Do.
W. S. Fletcher	1,200 00	Do.
Thomas Harlan	1,200 00	Do.
John Puterbaugh	1,200 00	Do.
George A. Henry	1,200 00	Do.
J. B. Dorman	900 00	Repairs of building.
J. T. Sibley	720 00	Do.
F. Ford	600 00	Do.
C. G. Forbes	800 00	Distributing documents, education office.
W. H. Moffatt	660 00	Do.
Wash Jones	480 00	Do.
D. M. Turner	360 00	Do.
John Wood	p. d. 2 00	Expenses packing documents, Department Interior.
John K. Brown	p. d. 2 00	Do.
J. Edwards Clarke	p.m. 200 00	Collecting statistics, Bureau Education.
Thomas Hampson	1,600 00	Do.
A. P. Bogue	1,200 00	Do.
Julia A. Holmes	1,200 00	Do.
H. M. Wright	1,200 00	Do.
H. Presnell	1,200 00	Do.
J. E. Rockwell	1,200 00	Do.
W. B. Patterson	1,000 00	Do.
M. E. Kaemmerer	720 00	Do.
M. E. Murry	480 00	Do.
J. A. Bostic	400 00	Do.
Charles Warren	1,800 00	Do.
James Lingenfelter	p. d. 3 00	Contingent expenses, Patent Office.
L. B. Middleton	p. d. 2 50	Do.
A. H. Jones	p. d. 2 50	Do.
Greenberry Belt	p. d. 2 50	Do.

Names of persons employed in the Department of the Interior, &c.—Continued.

Name.	Salary.	Appropriation.
Robert McDonald	p. d. $1 50	Contingent expenses, Patent Office.
A. C. Parmelee	p. d. 1 25	Do.
Abraham Johnston	p. d. 1 25	Do.
Marshall Williams	p. d. 1 25	Do.
George Wooldridge	p. d. 1 25	Do.
Richard Stewart	p. d. 1 25	Do.
Anderson Hogan	p. d. 1 25	Do.
John Brodie	p. d. 1 25	Do.
W. P. Colley	p. d. 1 25	Do.
L. M. McDonald	p. d. 1 25	Do.
L. F. Stepper	p. d. 1 25	Do.
C. A. Erney	1,000 00	Copies of drawings, Patent Office.
T. H. Stuart	1,000 00	
Laura O. Friebus	900 00	
C. H. Story	900 00	
Lucy R. Ward	900 00	
A. A. Felch	900 00	
W. R. Omohundro	900 00	
Frank C. Doty	900 00	
Mary S. Parker	720 00	
A. B. Schaeffer	720 00	
Helen N. Stoops	720 00	
Kate Tastet	720 00	
E. P. Birnyea	900 00	Abridgement of letters patent.
Percy E. Clarke	900 00	Do.
George B. Starkweather	900 00	Do.
Henry W. Lord, jr	900 00	Do.
Irvine Miller	900 00	Do.
Juan Lewis	900 00	Do.
David L. Selke	900 00	Do.
W. H. Morrison	900 00	Do.
Ed. O. Forney	900 00	Do.
L. M. Babcock	900 00	Do.
Franc W. Parker	900 00	Do.
John O. Pugh	720 00	Do.
Hattie E. Wilbur	720 00	Do.

Name.	Detailed from—	Detailed to—	Salary.
William P. Seville	Pension Office	Secretary's office	$1,600 00
Josiah C. Stoddard	do	do	1,200 00
George A. Talbot	do	do	720 00
Clarence G. Allen	Census Office	do	1,200 00
Clayton E. Simmes	do	do	1,400 00
Horace Ellmaker	do	do	720 00
Heber Todd	do	do	1,000 00
J. Ramon Carrillo	General Land-Office	do	720 00
Charles Hayden	do	do	660 00
William Johnson	do	do	660 00
Richard Gallagher	Patent Office	do	900 00
William T. Baldwin	do	do	720 00
Harvey A. Merrill	Indian Office	Patent Office	360 00
Persifer A. Kennedy	Secretary's office	Indian Office	720 00

WAR DEPARTMENT,
Washington City, March 21, 1882.

SIR: The department duly received the letter of the 21st ultimo from the Committee Appropriations, House of Representatives, requesting that you be furnished "with tatement which shall set forth in number, name, class, or occupation, salary and ges or pay, information showing what officers, clerks, or other employés, are now service in your [War] department who are not specifically provided for and appro-ated for, but are paid from appropriations made by the government which are not cifically made in the regular appropriation laws, in terms, for such purpose, and if y such, information as to what fund they are respectively paid from, and the ount paid each per year, month, or day, and the authority for such payment; also tatement showing in the same classification and description above indicated what rks are detailed under provisions of section 166 of the Revised Statutes, to which reau they were originally appointed and to which detailed."

n reply, I have the honor to transmit herewith reports of the several heads of reaus of the department, comprising the information desired, so far as relates to ir respective offices, together with a list giving like information in regard to the ce of the Secretary of War.

Very respectfully, your obedient servant,

ROBERT T. LINCOLN,
Secretary of War.

Hon. FRANK HISCOCK,
Chairman Committee on Appropriations,
House of Representatives.

tement of the "general service" force of clerks employed in the office of the Secretary of War, authorized by act of Congress approved March 3, 1881, for whose pay provision is made in the appropriations for the support of the Army.

No.	Name.	Grade.	Occupation.	Pay.				Commutation of—				*Allowance for clothing for the current year.	Total pay, commutation, and allowances for one year, at the current rates.
				*Proper.		*Extra duty.		*Rations.		*Quarters and fuel.			
				Rate per month.	Rate per year.	Rate per day.	Rate per year.	Rate per day.	Rate per year.	Rate per month.	Rate per year.		
1	Ackerman, Morris L †	Sergeant	Clerk	$18	$216 00	$0 35	$127 75	$1	$365 00	$30	$360 00	$38 66	$1,107 41
2	Dunn, Edward †	do	do	23	276 00	35	127 75	1	365 00	30	360 00	38 66	1,167 41
3	Haines, Philip D †	do	do	22	264 00	35	127 75	1	365 00	30	360 00	63 67	1,180 42
4	Johnson, William M †	do	do	23	276 00	36	127 75	1	365 00	30	360 00	63 67	1,192 42
5	Lewis, Thomas †	do	do	24	288 00	35	127 75	1	365 00	30	360 00	38 66	1,179 41
6	Travers, Richard B †	do	do	22	264 00	35	127 75	1	365 00	30	360 00	38 01	1,154 76
7	Bliss, Charles H †	Private	do	13	156 00	35	127 75	1	365 00	30	360 00	61 66	1,070 41
8	Calvert, Fred. G †	do	do	15	180 00	35	127 75	1	365 00	30	360 00	36 67	1,069 42
9	Concannon, Frank D †	do	do	13	156 00	35	127 75	1	365 00	30	360 00	61 66	1,070 41
10	Ford, Francis W †	do	do	13	156 00	35	127 75	1	365 00	30	360 00	61 66	1,070 41
11	Kiggins, Frank N †	do	do	13	156 00	35	127 75	1	365 00	30	360 00	61 66	1,070 41
12	Loeffler, Charles C. M †	do	do	13	156 00	35	127 75	1	365 00	30	360 00	61 66	1,070 41
13	Bronaugh, Frank P †	do	do	16	192 00	35	127 75	1	365 00	30	360 00	27 68	1,072 43
14	Stewart, T. T ‡	do	do	13	156 00	35	127 75	1	365 00	30	360 00	61 66	1,070 41

* For authority for payment of pay, commutation, allowances, &c., see foot-notes on report of the Adjutant-General.

† Assigned to duty in the office of the Secretary of War from the thirty enlisted men authorized by the act of March 3, 1881, 21 Stats., p. 404, 1st paragraph at top of page.

‡ Enlisted in office of Chief of Engineers under authority of act of June 20, 1874 (Sup. to Rev. Stat., vol. 1, p. 47, ch. 328, par. 26), and detailed in office of Secretary of War under provisions of sec. 166, Rev. Stats.

[illegible] of the force of civilian employés in the office of the Secretary of War not specifically appropriated for.

No.	Name.	Character of service.	Rate of pay.	Appropriation from which payment is made.	By what authority employed.
15	J. C. S. Burger*	Clerk	$1,000 per annum	Examination and surveys at South Pass, Mississippi River.	Secretary of War.
16	George W. Graves	Telegraph messenger	$20 per month	Contingencies of the Army	Do.
17	A. R. Johnson	Skilled laborer	$60 per month	Contingent expenses, War Department building.	Do.
18	Charles A. Payton	Laborer	$50 per month	do	Do.
19	John J. McGuigan	Machinist, &c	$75 per month	do	Do.

* Employed under authority of the act of June 20, 1874, in office of Chief of Engineers (see Sup. to Rev. Stats., vol. 1, p. 47, ch. 328, par. 26), and detailed in office of Secretary of War under provisions of sec. 166, Rev. Stats.

Statement of the "general service" force of clerks, mechanics, messengers, and watchmen, employed in the Adjutant-General's Office, authorized by act of Congress approved March 3, 1875 (Sup. to Rev. Stat., vol. 1, ch. 129, page 156, paragraph 5), for whose pay provision is made in the appropriations for the support of the Army.

No.	Name.	Grade.	Occupation.	Pay.				Commutation of—				Allowance for clothing for the current year.e	Total pay, commutation, and allowances for one year at the current rates.
				Proper. a		Extra duty. b		Rations. c		Quarters and fuel. d			
				Rate per month.	Rate per year.	Rate per day.	Rate per year.	Rate per day.	Rate per year.	Rate per month.	Rate per year.		
1	Burke, De Witt C	Sergeant	Clerk	$23	$276 00	$0 35	$127 75	$1 00	$365 00	$30	$360 00	$38 01	$1,166 76
2	Brown, James	do	do	23	276 00	35	127 75	1 00	365 00	30	360 00	38 01	1,166 76
3	Barnard, Hanson F	do	do	18	216 00	35	127 75	1 00	365 00	30	360 00	38 66	1,107 41
4	Burke, Michael	do	do	22	264 00	35	127 75	1 00	365 00	30	360 00	63 67	1,180 42
5	Carroll, Edward C	do	do	23	276 00	35	127 75	1 00	365 00	30	360 00	63 67	1,192 42
6	Carmick, Thomas G	do	do	22	264 00	35	127 75	1 00	365 00	30	360 00	38 01	1,154 76
7	Clarke, William S	do	do	20	240 00	35	127 75	1 00	365 00	30	360 00	28 63	1,121 38
8	Davidson, Daniel D	do	do	23	276 00	35	127 75	1 00	365 00	30	360 00	38 01	1,066 76
9	Fought, Joseph	do	do	22	264 00	35	127 75	1 00	365 00	30	360 00	63 67	1,180 42
10	Hilton, James H	do	do	20	240 00	35	127 75	1 00	365 00	30	360 00	28 63	1,121 38
11	Hoyberger, Martin	do	do	26	312 00	35	127 75	1 00	365 00	30	360 00	63 67	1,228 42
12	Hughes, Harry R	do	do	22	264 00	35	127 75	1 00	365 00	30	360 00	38 01	1,154 76
13	Hollins, Joseph H. C	do	do	17	204 00	35	127 75	1 00	365 00	30	360 00	38 01	1,094 76
14	Hebrew, William	do	do	20	240 00	35	127 75	1 00	365 00	30	360 00	28 63	1,121 38
15	Heap, S. Lawrence	do	do	22	264 00	35	127 75	1 00	365 00	30	360 00	38 01	1,154 76
16	Maloney, Thomas	do	do	22	264 00	35	127 75	1 00	365 00	30	360 00	38 01	1,154 76
17	Macgill, Winfield S	do	do	22	264 00	35	127 75	1 00	365 00	30	360 00	38 66	1,155 41
18	Meyer, Adolph	do	do	22	264 00	35	127 75	1 00	365 00	30	360 00	63 67	1,180 42
19	O'Connor, Martin	do	do	25	300 00	35	127 75	1 00	365 00	30	360 00	63 67	1,216 42
20	Riggles, George W	do	do	22	264 00	35	127 75	1 00	365 00	30	360 00	38 01	1,154 76
21	Stewart, John C	do	do	23	276 00	35	127 75	1 00	365 00	30	360 00	63 67	1,192 42
22	Sowyn, Francis	do	do	24	288 00	35	127 75	1 00	365 00	30	360 00	63 67	1,204 42
23	Selden, Robert R	do	do	22	264 00	35	127 75	1 00	365 00	30	360 00	28 63	1,145 38
24	Smith, William R	do	do	20	240 00	35	127 75	1 00	365 00	30	360 00	28 63	1,121 38
25	Smith Hubbard T	do	do	17	204 00	35	127 75	1 00	365 00	30	360 00	63 67	1,120 42
26	Wetzel, Wilmer W	do	do	22	264 00	35	127 75	1 00	365 00	30	360 00	38 01	1,194 76
27	Walsh, Thomas H	do	do	22	264 00	35	127 75	1 00	365 00	30	360 00	63 67	1,180 42
28	Andrew, William A	Private	do	16	192 00	35	127 75	1 00	365 00	30	360 00	27 68	1,072 43
29	Bailey, William R	do	do	13	156 00	35	127 75	1 00	365 00	30	360 00	61 66	1,070 41
30	Chew, Leonard C	do	do	15	180 00	35	127 75	1 00	365 00	30	360 00	36 67	1,069 42

31	Copenhaver, Harry E	do	do	16	192 00	35	127 75	1 00	365 00	30	360 00	27 68	1,072 43
32	Cranmer, David	do	do	16	192 00	35	127 75	1 00	365 00	30	360 00	36 67	1,081 42
33	Chadwick, George H	do	do	13	156 00	35	127 75	1 00	365 00	30	360 00	36 67	1,045 42
34	Currier, David	do	do	13	156 00	35	127 75	1 00	365 00	30	360 00	61 66	1,070 41
35	Evans, John G	do	do	13	156 00	35	127 75	1 00	365 00	30	360 00	36 67	1,045 42
36	Fallon, John T	do	do	16	192 00	35	127 75	1 00	365 00	30	360 00	27 68	1,072 43
37	Fitch, Louis M	do	do	14	168 00	35	127 75	1 00	365 00	30	360 00	37 43	1,058 18
38	Ferguson, Albert B	do	do	16	192 00	35	127 75	1 00	365 00	30	360 00	61 66	1,106 41
39	French, jr., William H	do	do	13	156 00	35	127 75	1 00	365 00	30	360 00	61 66	1,070 41
40	Garesché, Louis J*	Sergeant	do	19	228 00	35	127 75	1 00	365 00	30	360 00	38 01	1,118 76
41	Getty, Alonzo F	Private	do	13	156 00	35	127 75	1 00	365 00	30	360 00	36 67	1,045 42
42	Howard, Melville H	do	do	14	168 00	35	127 75	1 00	365 00	30	360 00	37 43	1,058 18
43	Harwood, Avery A	do	do	13	156 00	35	127 75	1 00	365 00	30	360 00	36 67	1,045 42
44	Johnson, Joseph H	do	do	18	216 00	35	127 75	1 00	365 00	30	360 00	36 67	1,105 42
45	Jones, Richard C	do	do	18	216 00	35	127 75	1 00	365 00	30	360 00	36 67	1,105 42
46	Lancaster, Frank A	do	do	13	156 00	35	127 75	1 00	365 00	30	360 00	61 66	1,070 41
47	Littlefield, Martin L	do	do	13	156 00	35	127 75	1 00	365 00	30	360 00	36 67	1,045 42
48	Mitchell, Robert H	do	do	13	156 00	35	127 75	1 00	365 00	30	360 00	36 67	1,045 42
49	Mason, Arthur B	do	do	13	156 00	35	127 75	1 00	365 00	30	360 00	61 66	1,070 41
50	McKee, John M. E	do	do	18	216 00	35	127 75	1 00	365 00	30	360 00	36 67	1,105 42
51	McKernan, Thomas	do	do	19	228 00	35	127 75	1 00	365 00	30	360 00	36 67	1,117 42
52	Quinan, John A	do	do	13	156 00	35	127 75	1 00	365 00	30	360 00	36 67	1,045 42
53	Roach, William H	do	do	13	156 00	35	127 75	1 00	365 00	30	360 00	36 67	1,045 42
54	Scott, William A	do	do	18	216 00	35	127 75	1 00	365 00	30	360 00	37 43	1,106 18
55	Steffen, August	do	do	18	216 00	35	127 75	1 00	365 00	30	360 00	61 66	1,130 41
56	Sabine James	Private	Clerk	15	180 00	35	127 75	1 00	365 00	30	360 00	36 67	1,069 42
57	Seiffert, John H	do	do	14	168 00	35	127 75	1 00	365 00	30	360 00	37 43	1,058 18
58	Summy, Benjamin W	do	do	13	156 00	35	127 75	1 00	365 00	30	360 00	36 67	1,045 42
59	Smith, sr., William R	do	do	13	156 00	35	127 75	1 00	365 00	30	360 00	36 67	1,045 42
60	Todd, Ashton	do	do	13	156 00	35	127 75	1 00	365 00	30	360 00	36 67	1,045 42
61	Upton, George W	do	do	13	156 00	35	127 75	1 00	365 00	30	360 00	61 66	1,070 41
62	Waters, David S	do	do	18	216 00	35	127 75	1 00	365 00	30	360 00	61 66	1,130 41
63	Whitcomb, Gustavus A	do	do	16	192 00	35	127 75	1 00	365 00	30	360 00	27 68	1,072 43
64	Weaver, Stanton	do	do	18	216 00	35	127 75	1 00	365 00	30	360 00	61 66	1,130 41
65	Woodward, Herbert E	do	do	18	216 00	35	127 75	1 00	365 00	30	360 00	36 67	1,105 42
66	Walker, Robert J	do	do	16	192 00	35	127 75	1 00	365 00	30	360 00	36 67	1,081 42
67	Weber, Philip H	Sergeant	Mechanic	25	300 00	35	127 75	1 00	365 00	25	300 00	63 67	1,156 42
68	Mack, Fred. O	do	do	24	288 00	35	127 75	1 00	365 00	25	300 00	38 66	1,119 41
69	Grimm, August	Private	do	20	240 00	35	127 75	1 00	365 00	25	300 00	61 66	1,094 41
70	O'Hagan, John	do	do	19	228 00	35	127 75	1 00	365 00	25	300 00	61 66	1,082 41
71	Short, George H	Corporal	Messenger	21	252 00	20	73 00	1 00	365 00	25	300 00	38 28	1,028 28
72	Allen, Joseph	Private	do	23	276 00	20	73 00	1 00	365 00	25	300 00	36 67	1,050 67
73	Allen, William J	do	do	13	156 00	20	73 09	1 00	365 00	25	300 00	61 66	955 66
74	Burrhus, jr., Fred. C	do	do	14	168 00	20	73 00	1 00	365 00	25	300 00	37 43	943 43
75	Baker, Jacob B	do	do	13	156 00	20	73 00	1 00	365 00	25	300 00	61 66	955 66
76	Clements, Joseph	do	do	20	240 00	20	73 00	1 00	365 00	25	300 00	37 43	1,015 43
77	Crotty, Joseph J	do	do	13	156 00	20	73 00	1 00	365 00	25	300 00	36 67	930 67
78	Dade, Adam	do	do	18	216 00	20	73 00	1 00	365 00	25	300 00	27 68	981 68
79	Finn, John	do	do	18	216 00	20	73 00	1 00	365 00	25	300 00	36 67	990 67
80	Goldsborough, William	do	do	21	252 00	20	73 00	1 00	365 00	25	300 00	37 43	1,027 43

* Appointed sergeant March 1, 1882.

Statement of the "general service" force of clerks, mechanics, messengers, and watchmen employed in the Adjutant-General's Office, &c.—Continued.

No.	Name.	Grade.	Occupation.	Pay.				Commutation of—				Allowance for clothing for the current year. *e*	Total pay, commutation, and allowances for one year at the current rates.
				Proper. *a*		Extra duty. *b*		Rations. *c*		Quarters and fuel. *d*			
				Rate per month.	Rate per year.	Rate per day.	Rate per year.	Rate per day.	Rate per year.	Rate per month.	Rate per year.		
81	Grier, Edward	Private	Messenger	$20	$240 00	$0 20	$73 00	$1 00	$365 00	$25	$300 00	$37 43	$1,015 43
82	Gill, William	do	do	16	192 00	20	73 00	1 00	365 00	25	300 00	27 68	957 68
83	Hewston, Michael J	do	do	16	192 00	20	73 00	1 00	365 00	25	300 00	27 68	957 68
84	Kelly, John	do	do	20	240 00	20	73 00	1 00	365 00	25	300 00	36 67	1,014 67
85	Kane, Stephen	do	do	23	276 00	20	73 00	1 00	365 00	25	300 00	61 66	1,075 66
86	Kohler, John C	do	do	20	240 00	20	73 00	1 00	365 00	25	300 00	61 66	1,039 66
87	Killigan, Daniel	do	do	18	216 00	20	73 00	1 00	365 00	25	300 00	36 67	990 67
88	Landgraf, Fred	do	do	20	240 00	20	73 00	1 00	365 00	25	300 00	37 43	1,015 43
89	Larkin, Patrick	do	do	22	264 00	20	73 00	1 00	365 00	25	300 00	61 66	1,063 66
90	Murphy, Matthew	do	do	23	276 00	20	73 00	1 00	365 00	25	300 00	61 66	1,075 66
91	Madert, Jacob	do	do	21	252 00	20	73 00	1 00	365 00	25	300 00	61 66	1,051 66
92	Malone, John	do	do	20	240 00	20	73 00	1 00	365 00	25	300 00	36 67	1,014 67
93	McCarthy, Florence	do	do	20	240 00	20	73 00	1 00	365 00	25	300 00	36 67	1,014 67
94	McMonigle, Samuel	do	do	20	240 00	20	73 00	1 00	365 00	25	300 00	61 66	1,039 66
95	McGilton, James	do	do	22	264 00	20	73 00	1 00	365 00	25	300 00	61 36	1,063 66
96	Noonan, James	do	do	20	240 00	20	73 00	1 00	365 00	25	300 00	36 67	1,014 67
97	Nesbitt, John B	do	do	16	192 00	20	73 00	1 00	365 00	25	300 00	37 43	967 43
98	Perkins, Edwin D	do	do	18	216 00	20	73 00	1 00	365 00	25	300 00	27 68	981 68
99	Quade, Edward	do	do	18	216 00	20	73 00	1 00	365 00	25	300 00	36 67	990 67
100	Sheridan, Thomas	do	do	21	252 00	20	73 00	1 00	365 00	25	300 00	37 43	1,027 43
101	Schulz, Henry	do	do	20	240 00	20	73 00	1 00	365 00	25	300 00	36 67	1,014 67
102	Scott, Ira G	do	do	18	216 00	20	73 00	1 00	365 00	25	300 00	36 67	990 67
103	Spain, Richard W	do	do	16	192 00	20	73 00	1 00	365 00	25	300 00	37 43	967 43
104	Widmire, John	do	do	18	216 00	20	73 00	1 00	365 00	25	300 00	36 67	990 67
105	Wynne, Thomas	do	do	20	240 00	20	73 00	1 00	365 00	25	300 00	61 66	1,039 66
106	Weldman, John	do	do	19	228 00	20	73 00	1 00	365 00	25	300 00	37 43	1,003 43
107	Washington, John M	do	do	16	192 00	20	73 00	1 00	365 00	25	300 00	27 68	957 68
108	Anderson, John	do	Watchman	20	240 00	20	73 00	1 00	365 00	25	300 00	37 43	1,015 43
109	Bogis, Alphonso W	do	do	19	228 00	20	73 00	1 00	365 00	25	300 00	61 66	1,027 66
110	Bruce, Edwin S	do	do	13	156 00	20	73 00	1 00	365 00	25	300 00	36 67	930 67
111	Cavanagh, Michael	do	do	19	228 00	20	73 00	1 00	365 00	25	300 00	37 43	1,003 43
112	Daly, Bart	do	do	18	216 00	20	73 00	1 00	365 00	25	300 00	36 67	990 67
113	Fraber, Adam	do	do	19	228 00	20	73 00	1 00	365 00	25	300 00	61 66	1,027 66

114	Goodacre, William H	do	do	19	228 00	20	73 00	1 00	365 00	25	300 00	61 66	1,027 66
115	Jewett, Joseph A	do	do	19	228 00	20	73 00	1 00	365 00	25	300 00	36 67	1,002 67
116	Kelly, Martin	do	do	13	156 00	20	73 00	1 00	365 00	25	300 00	61 66	955 66
117	Moore, Henry T	do	do	19	228 00	20	73 00	1 00	365 00	25	300 00	37 43	1,003,43
118	Murray, Charles E	do	do	18	216 00	20	73 00	1 00	365 00	25	300 00	27 68	981 16
119	McInerney, Morgan	do	do	18	216 00	20	73 00	1 00	365 00	25	300 00	36 67	990 67
120	McGowan, Nicholas	do	do	18	216 00	20	73 00	1 00	365 00	25	300 00	36 67	990 67
121	Plant, James	do	do	18	216 00	20	73 00	1 00	365 00	25	300 00	27 68	981 68
122	Sims, Thomas W	do	do	18	216 00	20	73 00	1 00	365 00	25	300 00	36 67	990 67
123	Wills, Samuel	do	do	18	216 00	20	73 00	1 00	365 00	25	300 00	27 68	981 68
124	Winn, Theodore	do	do	15	180 00	20	73 00	1 00	365 00	25	300 00	36 67	954 67
125	Waters, William	do	do	14	168 00	20	73 00	1 00	365 00	25	300 00	37 43	943 43
126	Whitney, Reuben M	do	do	13	156 00	20	73 00	1 00	365 00	25	300 00	36 67	930 67
127	Fishback, James*	do	Clerk	13	156 00	35	127 75	1 00	365 00	30	360 00	61 66	1,070 41

* Enlisted, *vice* Thompson discharged; see No. 26.

a The pay proper is fixed by statute (R. S., sec. 1280), and increases according to length of service under sections 1281 to 1284, R. S., inclusive. (12½ cents is deducted per month from the amount stated for pay proper for the support of "Soldiers' Home," *vide* sec. 4819, R. S.)

b Extra duty pay is authorized by sec. 1287, R. S., and is paid out of the appropriation for "regular supplies" of the Army.

c The rate of commutation of rations is authorized by the Secretary of War, and is paid out of the appropriation for "subsistence" for the Army.

d Commutation of quarters and fuel is authorized by the Secretary of War, and is paid out of the appropriation for "barracks and incidental expenses" for the Army.

e The allowance for clothing is paid under authority of General Order 52, Headquarters of the Army, June 14, 1881, and varies from year to year according to the cost of clothing for the Army.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE, *Washington, March* 15, 1882.

R. C. DRUM, *Adjutant-General.*

Statement of the "general service" force of clerks employed in the office of the Adjutant-General, authorized by act of Congress approved March 3, 1881, for whose pay provision is made in the appropriations for the support of the Army.

No.	Name.	Grade.	Occupation.	Pay.				Commutation of—				Allowance for clothing for the current year. *e*	Total pay, commutation, and allowances for one year at the current rates.
				Proper. *a*		Extra duty. *b*		Rations. *c*		Quarters and fuel. *d*			
				Rate per month.	Rate per year.	Rate per day.	Rate per year.	Rate per day.	Rate per year.	Rate per month.	Rate per year.		
128	Ballard, Augustus W *	Private	Clerk	$14	$168 00	$0 35	$127 75	$1 00	$365 00	$30	$360 00	$37 43	$1,058 18
129	Frear, Aaron H *	do	do	15	180 00	35	127 75	1 00	365 00	30	360 00	36 67	1,069 42
130	Gerdes, Herman H *	do	do	16	192 00	35	127 75	1 00	365 00	30	360 00	27 68	1,072 43
131	Johnson, Rudolph *	do	do	16	192 00	35	127 75	1 00	365 00	30	360 00	27 68	1,072 43
132	Lundy, Edwin K *	do	do	16	192 00	35	127 75	1 00	365 00	30	360 00	27 68	1,072 43
133	Lindley, John H *	do	do	13	156 00	35	127 75	1 00	365 00	30	360 00	61 66	1,070 41
134	McCarthy, John *	do	do	16	192 00	35	127 75	1 00	365 00	30	360 00	27 68	1,072 43
135	Ricketts, Richard *	do	do	16	192 00	35	127 75	1 00	365 00	30	360 00	27 68	1,072 43
136	Starr, Jacob W *	do	do	16	192 00	35	127 75	1 00	365 00	30	360 00	27 68	1,072 43
137	Smallwood, George T *	do	do	13	156 00	35	127 75	1 00	365 00	30	360 00	36 67	1,045 42
138	Kniffin, G. C †	do	do	13	156 00	35	127 75	1 00	365 00	30	360 00	36 67	1,045 42

* Assigned to duty in the Adjutant-General's Office from the thirty (30) enlisted men authorized by the act of March 3, 1881. (See 21 Statutes, page 404, 1st paragraph, at top of page.)

† Enlisted in general service (Signal Office) under authority of act of June 20, 1874 (Sup. to Rev. Stat., vol. 1, page 47, chap. 328, par. 26), and detailed in Adjutant-General's Office under provisions of sec. 166, Rev. Stat.

a The pay proper is fixed by statute (R. S., sec. 1,280), and increases according to length of service under sections 1281 to 1284, R. S., inclusive. (12½ cents deducted per month from the amount stated for pay proper, for the support of "Soldiers' Home," vide sec. 4819 R. S.)

b Extra-duty pay is authorized by sec. 1287 R. S., and is paid out of the appropriation for "regular supplies" of the Army.

c The rate of commutation of rations is authorized by the Secretary of War, and is paid out of the appropriation for "subsistence" for the Army.

d Commutation of quarters and fuel is authorized by the Secretary of War, and is paid out of the appropriation for "barracks and incidental expenses" for the Army.

e The allowance for clothing is paid under authority of General Order 52, Headquarters of the Army, June 14, 1881, and varies from year to year according to the cost of clothing for the Army.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, March 15, 1882.

R. C. DRUM,
Adjutant-General.

Statement showing number, name, class, and salary or pay of any officers, clerks, or other employés in the Inspector General's Office who are not specifically provided for in the regular appropriation laws, called for by letter from Committee on Appropriations, House of Representatives, to the Hon. Secretary of War.

No.	Name.	Class.	Occupation.
1	Charles W. Greene	Private, general service, United States Army	Clerk.

COMPENSATION.

Pay and commutations.	Appropriation paid from.	Per month.	Per year.
Pay of grade, second enlistment	Pay of the Army	$18 00	$216 00
Extra-duty pay	Incidental expenses, Quartermaster Department.	10 64 7/12	127 75
Commutation of quarters	Barracks and quarters, Quartermaster Department.	21 00	252 00
Commutation of fuel	Regular supplies, Quartermaster Department.	9 00	108 00
Commutation of rations	Subsistence of the Army	30 41 2/3	365 00
Commutation of clothing (second year)	Clothing, &c., Quartermaster Department.	3 05 7/12	36 67
Total		92 11 2/3	1,105 42

NOTE.—There are no clerks detailed in this office under provisions of section 166 Revised Statutes.

Statement of the "general service" force of clerks employed in the office of the Judge-Advocate-General, authorized by act of Congress approved March 3, 1881, for whose pay provision is made in the appropriations for the support of the Army.

No.	Name.	Grade.	Occupation.	Pay.				Commutation of—				Allowance for clothing for the current year.e	Total pay, commutation, and allowance for one year at the current rates.
				Proper.a		Extra duty.b		Rations.c		Quarters and fuel.d			
				Rate per month.	Rate per year.	Rate per day.	Rate per year.	Rate per day.	Rate per year.	Rate per month.	Rate per year.		
1	Chambers, Cyrus*	Private	Clerk	$16	$192 00	$0 35	$127 75	$1 00	$365 00	$30	$360 00	$27 68	$1,072 43
2	Simonton, John P*	do	do	16	192 00	35	127 75	1 00	365 00	30	360 00	27 68	1,072 43
3	Terry, Seth A*	do	do	13	156 00	35	127 75	1 00	365 00	30	360 00	61 66	1,070 41
4	Lumbard, Isaac†	do	Messenger	13	156 00	20	73 00	1 00	365 00	25	300 00	61 66	955 66

5. McDonald, Joseph, $125 per month; paid from appropriation for incidental expenses of the Quartermaster's Department; transferred from Fort Leavenworth, Kans., to duty in Washington, D. C., July 1, 1881.

a The pay proper is fixed by statute (R. S., sec. 1280), and increases according to length of service, under sections 1281 to 1284, R. S., inclusive. (12½ cents deducted per month from the amount stated for pay proper, for the support of "Soldiers' Home," vide sec. 4819, R. S.)

b Extra duty pay is authorized by sec. 1287, R. S., and is paid out of the appropriation for "regular supplies" of the Army.

c The rate of commutation of rations is authorized by the Secretary of War, and is paid out of the appropriation for "subsistence" for the Army.

d Commutation of quarters and fuel is authorized by the Secretary of War, and is paid out of the appropriation for "barracks and incidental expenses" for the Army.

e The allowance for clothing is paid under authority of General Order 52, Headquarters of the Army, June 14, 1881, and varies from year to year according to the cost of clothing for the Army.

* Assigned to duty in office of the Judge-Advocate-General from the 30 enlisted men authorized by act of March 3, 1881, 21 Stat., p. 464.

† Enlisted in general service (Signal Office) under authority of act of June 30, 1874 (sup. to Rev. Stat., vol. 1, page 47, chap. 328, par. 26), and detailed for duty in Judge-Advocate General's office, under provisions of sec. 166, Rev. Stat.

WAR DEPARTMENT, ADJUTANT GENERAL'S OFFICE,
Washington, March 15, 1882.

R. C. DRUM,
Adjutant General.

A statement showing the number, names, occupation, salary, or wages of employés in service in the office of the Quartermaster-General, who are not specifically appropriated for; also, the appropriation from which each is paid and the authority for such payment.

No.	Name.	Occupation.	Salary or wages.	Appropriation.	Authority.	Remarks.
1	Cooper, H. K	Agent	p. m. $300	Incidental expenses of Army	Secretary of War, February 28, 1880	Employed in settlement of indebted railroad accounts, and paid by depot quartermaster.
2	Zunker, Louis M	Mechanical engineer	p. d. 5 00	do	Quartermaster-General, October 21, 1878.	Employed in testing fuels used by the Army, and paid by the depot quartermaster.
3	Stevenson, Thomas	Laborer	p. d. 1 50	Contingent expenses Quartermaster-General's Office.	Verbal authority of Quartermaster-General.	Scrubbing floors, washing windows, &c., at intervals.
4	Mackew, Isabella	Charwoman	p. d. 1 50	do	do	Scrubbing floors, &c., at intervals.
5	Graham, Catherine	Washerwoman	p. m. $20	do	do	Washing towels.
6	Hughes, W. B	General service clerk	(*)		Secretary of War, March 1, 1881	
7	McBride, W. F	do	(*)		Secretary of War, December 17, 1880	
8	Berry, John	do	(*)		Secretary of War, December 20, 1880	
9	Davidson, Nathaniel	do	(*)		Secretary of War, January 5, 1881	
10	Deus, George C	do	(*)		Secretary of War, January 6, 1881	
11	Sykes, L. Fayette	do	(*)		do	
12	Geddes, William	do	(*)		Secretary of War, January 7, 1881	
13	Von Tagen, F. A	do	(*)		Secretary of War, January 8, 1881	
14	Winans, William	do	(*)		Secretary of War, January 10, 1881	
15	Perrott, George W	do	(*)		Secretary of War, January 11, 1881	
16	Johnson, Howard L	do	(*)		Secretary of War, January 17, 1881	
17	Posey, Lawrence O	General service messenger.	(*)		Secretary of War, January 5, 1881	

* The general service clerks detailed for duty in this office are paid the rates of pay allowed to soldiers of the Army of the same grade, and allowances of commutation of quarters, fuel, and subsistence, and are paid from the several appropriations of the Army applicable thereto. These men are detached from office of Chief of Engineers, under provisions of sec. 166, Rev. Stat. They were enlisted in the office of the Chief of Engineers under authority of the act of June 20, 1874 (Sup. to Rev. Stat., vol. 1, p. 47, chap. 328, par. 36).

Respectfully submitted.

S. B. HOLABIRD,
Assistant Quartermaster General, U. S. A., in charge

QUARTERMASTER-GENERAL'S OFFICE, *March* 2, 1882.

WAR DEPARTMENT,
OFFICE COMMISSARY-GENERAL OF SUBSISTENCE,
Washington, D. C., March 4, 1882.

SIR: In compliance with the requirements of your circular of 23d ultimo, I have the honor to report that the following enlisted men are employed in this office under the authority granted by the "act making appropriations for the legislative, executive, and judicial expenses of the government for the fiscal year ending June 30, 1882, and for other purposes," approved March 3, 1881 (21 Stat., 403), viz:

No.	Names.	Class.	Occupation.	Pay.				
				Pay proper.	Extra duty	Commutation of qua	Commutation of fuel.	Commutation of rations.
				Per mo.	*Per day.*	*Per mo.*	*Per mo.*	*Per day.*
1	Houghton, D. W	Sergeant	Clerk	$17 00	$0 00	$21 00	$9 00	$1 00
2	Blackwood, Joseph	Private	do	13 00	35	21 00	9 00	1 00
3	Cutler, L. B	do	do	13 00	35	21 00	9 00	1 00
4	Dewey, W. F	do	do	13 00	35	21 00	9 00	1 00
5	Elliott, J. B. K	do	do	13 00	35	21 00	9 00	1 00
6	Hansell, G. B	do	do	13 00	35	21 00	9 00	1 00
7	McSweeny, E	do	do	13 00	35	21 00	9 00	1 00
8	Meagher, Peter	do	do	13 00	35	21 00	9 00	1 00
9	Sanderson, A. J	do	do	13 00	35	21 00	9 00	1 00
10	Voss, H. H	do	do	13 00	35	21 00	9 00	1 00
11	Smith, B. F	do	do	13 00	35	21 00	9 00	1 00

In addition to the above there is one enlisted man, B. F. Smith, No. 11 (having the above allowance of a private), who is detailed for duty in this office from the thirty enlisted men allowed to the War Department by 21 Stat., 404.

The pay proper of these men is paid from the appropriation "pay of the Army"; their extra-duty pay, commutation of quarters, and commutation of fuel are paid from the appropriations of the Quartermaster's Department; and their commutation of rations is paid from the appropriation "subsistence of the Army." These several allowances of commutation are granted by authority of the Secretary of War. In addition, they are entitled to commutation for clothing not drawn, varying in amount from $69 to $30 per annum according to period of service, and is paid from the appropriation for "pay of the Army" at the time of final discharge. They are also entitled to "retained pay" at time of discharge, at rates prescribed by section 1281, Revised Statutes.

There are no officers, clerks, or other employés now in service in this bureau, other than the above, who are "not specifically provided for and appropriated for, but are paid from appropriations made by the government which are not specifically made in the regular appropriation laws, or other laws, in terms, for such purpose."

There are no clerks detailed for duty in this bureau under section 166, Revised Statutes.

Respectfully, your obedient servant,

R. MACFEELY,
Commissary-General of Subsistence.

The honorable SECRETARY OF WAR.

Statement of the general service force of clerks employed in the Surgeon-General's Office, authorized by the act of Congress approved March 3, 1881 (21 Stat., page 403), *for whose pay provision is made in the appropriation for the support of the Army.*

Number.	Name.	Grade.	Occupation.	Pay. Regular, per month, from the appropriation for the pay of the Army. *a*	Pay. Extra duty, per day, from the appropriation for the Quartermaster's Department. *b*	Commutation. For subsistence, from the appropriation for the Subsistence Department. *c*	Commutation. For quarters and fuel, per month, from the appropriation for the Quartermaster's Department. *d*	Allowance for clothing for the current year, paid from the appropriation for the Quartermaster's Department. *e*	Total pay and allowance, for one year at the current rates.
						Per diem.			
1	Ballard, William S	Private	Clerk	$15 00	$0 35	$1 00	$30 00	$36 67	$1,069 42
2	Brown, Edmond H	do	do	15 00	35	1 00	30 00	36 67	1,069 42
3	Burnham, Mark	do	do	14 00	35	1 00	30 00	37 43	1,058 18
4	Cudlip, George D	do	do	13 00	35	1 00	30 00	36 67	1,045 42
5	Cutter, John H	do	do	14 00	35	1 00	30 00	37 43	1,058 18
6	Farden, J. Le Roy	do	do	13 00	35	1 00	30 00	61 66	1,070 41
7	Forrest, Samuel W	do	do	13 00	35	1 00	30 00	61 66	1,070 41
8	Gawler, Alfred H	do	do	16 00	35	1 00	30 00	27 68	1,072 43
9	Guilford, William, jr	do	do	13 00	35	1 00	30 00	36 67	1,045 42
10	Hawling, Isaac	do	do	15 00	35	1 00	30 00	36 67	1,069 42
11	Janvier, Thomas H	do	do	15 00	35	1 00	30 00	36 67	1,069 42
12	Knoop, Frederick	do	do	13 00	35	1 00	30 00	61 66	1,070 41
13	Lewis, Thomas H	do	do	13 00	35	1 00	30 00	61 66	1,070 41
14	McKeever, Edwin K	do	do	13 00	35	1 00	30 00	61 66	1,070 41
15	Miller, Stephen C	do	do	13 00	35	1 00	30 00	36 67	1,045 42
16	Owens, John L	do	do	13 00	35	1 00	30 00	61 66	1,070 41
17	Petersen, Charles W	do	do	13 00	35	1 00	30 00	61 66	1,070 41
18	Slough, Martin	do	do	13 00	35	1 00	30 00	36 67	1,045 42
19	Tustin, Septimus N	do	do	13 00	35	1 00	30 00	61 66	1,070 41
20	Wells, Eugene	do	do	13 00	35	1 00	30 00	61 66	1,070 41
21	Cadman, Walter*	do	do	13 00	35	1 00	30 00	36 67	1,045 42
22	Casey, Charles C*	do	do	13 00	35	1 00	30 00	61 66	1,070 41

* Assigned to duty in Surgeon-General's Office from the 30 enlisted men authorized by act of March 3, 1881 (21 Stat., p. 404, first paragraph).

a The regular pay is fixed by statute (R. S. 1280), and increases for length of service under sections 1281 to 1284, R. S.

b Extra duty pay is authorized by section 1287, R. S.

c Commutation of rations is paid under authority of order of Secretary of War, dated October 31, 1863.

d Commutation of quarters and fuel is paid under authority of orders from the Secretary of War October 21, 1870.

e The allowance of clothing is paid under authority of par. 1302 and 1308, R. S., and G. O. No. 52, Headquarters of the Army, June 14, 1881, and varies from year to year according to cost of clothing for the Army.

WAR DEPARTMENT, PAYMASTER-GENERAL'S OFFICE,
Washington, February 24, 1882.

SIR: In compliance with circular of the War Department of the 23d instant, I have the honor to report that under the act making appropriations for civil expenses of March 3, 1879 (Stat. at L., vol. 20, p. 403), and the act to supply deficiencies, of March 3, 1881 (Stat. at L., vol. 21, p. 418), one clerk, William H. Harrison, is employed by Major Carey, in charge of bounties, &c., at an annual salary of $1,600.

One enlisted man of the general service, James A. Roche, was transferred, by order of the Secretary of War, from the office of the Commissary-General of Subsistence to this office October 11, 1878, and is still on duty in this office. His pay is that of a private soldier, viz, $13 per month, with allowance for quarters and rations paid by the Quartermaster-General and Commissary-General, respectively.

There are no other clerks in this office coming within the inquiries of the circular.

I have the honor to be,

Very respectfully, your obedient servant,

GEORGE L. FEBIGER,
Acting Paymaster-General, U. S. A.

To the honorable the SECRETARY OF WAR.

39	Franz von Schilling	Draughtsman	do	do	
40	George Ritter	do	do	do	
41	William H. Deckman	Mechanic	do	do	
42	Charles Haerle	Messenger	do	do	
43	William J. Lee	do	do	do	
44	Earl S. Rathbun	do	do	do	

List of employés paid from appropriations not specifically made in terms for such purpose, enlisted in the general service, U. S. Army, and assigned to duty in the office of the Chief of Engineers, U. S. Army, showing names, occupation, compensation, appropriation from which paid, and the authority therefor, who are detailed under provisions of section 166 Revised Statutes.

No.	Names.	Occupation.	Compensation.	Appropriation from which paid.	Authority.	Detailed to—
45	James Tindall	Mechanic	Pay of grade in the Army.	Appropriations for support of the Army	Act of June 20, 1874, supplement to Rev. Stats. U. S., vol. 1, page 47, chap. 328, par. 26.	Winder's building.
46	Patrick Sweeney	Watchman	do	do		Do.

Officers, clerks, and other employés now employed in the Signal Service in Washington, D. C., who are not specificalley provided for and appropriated for, but are paid from appropriations made by the government, which are not specifically made in the regular appropriation laws, or other laws, in terms, for such purposes.

Number.	Names.	Class or occupation.	What appropriation paid from.	Amount paid each per month or year.	Authority for payment.	Where employed.	Remarks.
1	Abbe, Cleveland	Civil assistant	Appropriation, observation and report of storms.	$375 00	Chief Signal-Officer	Office Chief Signal-Officer	
2	Upton, W	Computer	do	125 00	do	do	
3	Hazen, H. A	do	do	125 00	do	do	
4	Waldo, F	do	do	125 00	do	do	
5	Hazen, R. W	Mailing office publications.	do	85 00	do	do	
6	Leaming, J. E	Copyist	do	75 00	do	do	
7	Spenser, T. J	Clerk	do	75 00	do	do	
8	Walters, L	Printer	do	75 00	do	do	
9	Burer, E., jr	Clerk	do	75 00	do	do	
10	Lee, W. F	do	do	70 00	do	do	
11	Hitchins, H	Copyist	do	75 00	do	do	
12	Ray, C. A	Clerk	do	70 00	do	do	
13	Pugh, T. O	do	do	60 00	do	do	
14	Ray, Mrs. Kate L	do	do	60 00	do	do	
15	Graf, F	do	do	60 00	do	do	
16	Black, M. L	Copyist	do	60 00	do	do	
17	Fermo, Z	Clerk	do	60 00	do	do	
18	Hunt, M	do	do	60 00	do	do	
19	Rice, F. H	do	do	60 00	do	do	
20	Klum, A. B	Copyist	do	60 00	do	do	
21	Brewer, M. M	Clerk	do	50 00	do	do	
22	Hitchcock, L. D	do	do	50 00	do	do	
23	Hanner, E. A	do	do	50 00	do	do	
24	Stewart, M. T	Printer	do	50 00	do	do	
25	Dillon, E	Carpenter	do	50 00	do	do	
26	Dyer, J. H	do	do	50 00	do	do	
27	Delmore, J	do	do	50 00	do	do	
28	Noah, J. M	Clerk	do	50 00	do	do	
29	Davidson, W. A	Messenger	do	50 00	do	do	
30	Brice, E	do	do	50 00	do	do	
31	Keim, M	Clerk	do	45 00	do	do	
32	Gaines, J. W	Messenger	do	45 00	do	do	
33	Lyons, T. B	Clerk	do	40 00	do	do	
34	Butler, H. B	do	do	75 00	do	do	
35	Davies, A. E	do	do	50 00	do	do	
36	Joyce, A	Messenger	do	40 00	do	do	
37	Tyler, J	do	do	40 00	do	do	

38	Patrick, W	do	do	40 00	do	do	
39	Branham, E	do	do	40 00	do	do	
40	Curtin, T	Laborer	do	40 00	do	do	
41	Jenifer, H	Messenger	Appropriation, signal	40 00	do	do	
42	Greenwell, G	do	Appropriation, observation and report of storms.	35 00	do	do	
43	Washington, W	Laborer	do	35 00	do	do	
44	Rowe, G	do	do	35 00	do	do	
45	Marston, G	Messenger	do	35 00	do	do	
46	Mathews, F	Laborer	Appropriation, signal	35 00	do	do	
47	Chase, J. H	Messenger	Appropriation, observation and report of storms.	30 00	do	do	
48	Hays, R. W	do	do	30 00	do	do	
49	Sullivan, T. A	do	do	30 00	do	do	
50	Hays, M	do	do	30 00	do	do	
51	Thomason, A	do	do	30 00	do	do	
52	Anderson, J	do	do	30 00	do	do	
53	Clarck, C	Press boy	do	30 00	do	do	
54	Gartrell, G. M	do	do	30 00	do	do	
55	Mannis, J	Driver	do	30 00	do	do	
56	Brannan, C. V	Fold and stitch	do	25 00	do	do	
57	Myers, F	Mess and press boy	do	25 00	do	do	
58	Howard, W. E	do	do	25 00	do	do	
59	Feeny, W. J	do	do	25 00	do	do	
60	Welsh, G	Messenger	do	20 00	do	do	
61	Heck, G. J	do	do	20 00	do	do	
62	Welch, E	Press boy	do	20 00	do	do	
63	Penn, Guy	Messenger	do	15 00	do	do	
64	Dyer, W	do	do	15 00	do	do	

In addition to the foregoing the following, "general service" force of clerks, &c., is employed in this office, for whose pay provision is made in the appropriations for the support of the Army:

65	Beebe, W. M., jr. (private).	Clerk				Office Chief Signal-Officer	Enlistment authorized by act of June 20, 1874.—*Sup. to Rev. Stat. vol. 1, p. 47, chap. 328, par. 26.*
66	Penn, M. A. (private)	do				do	
67	Balster, J. (private)	Watchman				do	
68	Cross, W. H. (sergeant)	Clerk				Lieutenant Greeley's Arctic Expedition.	

Statement of temporary clerks and others employed in the office for the publication of the official Records of the War of the Rebellion, under the act of March 3, 1881, chapter 133, page 445.

No.	Names.	Class or occupation.	Salary, yearly.	Authority for payment.
1	Marcus J. Wright	Agent for collection of Confederate records.	$2,400	The act approved March 3, 1881 (chap. 133), appropriates, among other items, "for publication of the official records of the war of the rebellion," as follows: "For compensation of temporary clerks and other employés, thirty-four thousand six hundred and eighty dollars." The same act also appropriates for "indexing, and proof-reading and printing and binding, under direction of the Secretary of War," &c., forty thousand dollars.
2	Edwin J. Harvie	Clerk class four	1,800	
3	F. Collins Smith	Clerk class three	1,600	
4	Virginia E. Dade	Clerk	1,000	
5	Sarah H. Purcell	do	1,000	
6	Jennie C. Hoffar	Copyist	840	
7	Mary E. Weeks	do	840	
8	Maria Thomas	do	840	
9	Virginia F. Whalin	do	840	
10	Martha E. Gilmer	do	840	
11	Annie E. Byus	do	840	
12	Mary E. Lee	do	840	
13	Ella W. Daniels	do	840	
14	Caroline E. Bachelder	do	840	
15	Pamphila S. Wolcott	do	840	
16	Mary E. Davison	do	840	
17	Mary A. Fisher	do	840	
18	Bennina M. Bartlett	do	840	
19	Emma Leckie	do	840	
20	Marie A. Wilson	do	840	
21	Ida R. Morris	do	840	
22	Joanna W. Turner	do	840	
23	Emilie C. Chase	do	840	
24	John N. Bovee	Foreman	1,600	
25	Alfred C. Shaw	Pressman	1,200	
26	William Ricketts	Compositor	1,000	
27	E. J. Gray	do	1,000	
28	John L. Kennedy	do	1,000	
29	Cyrus D. Fletcher	do	1,000	
30	Samuel J. Armstrong	do	1,000	
31	Charles Reegin	Assistant messenger	720	
32	Thomas McFadden	do	720	
33	Thomas E. Liday	do	720	
34	Erastus Thatcher	Watchman	720	
35	Frank T. Randolph	do	720	
36	John P. Morris	Additional laborer	600	

Indexers and proof-readers employed in the office for the publication of the official Records of the War of the Rebellion, under the act of March 3, 1881.

37	John S. Moodey	Clerk class four	$1,800	
38	Benjamin S. Platt	Clerk class two	1,400	
39	Anna M. Otis	Copy-holder	900	
40	Jessie C. Johns	do	900	

ROBERT N. SCOTT,
Brevet Lieut. Col. U. S. Army.

WAR RECORDS OFFICE, *February* 27, 1882.

NAVY DEPARTMENT.

[Reply to committee's letter of 28th March.]

NAVY DEPARTMENT,
Washington, March 21, 1882.

SIR: In compliance with the request of the Committee on Appropriations, I have the honor to submit herewith supplemental estimates for the permanent and temporary clerical force of this department.

Sheet No. 1 embraces the clerks, messengers, and laborers required for the inspection, examining, and retiring boards, for the office of the Judge-Advocate-General of the Navy, and for the office of the Secretary of the Navy.

The boards mentioned are continuously in session. The civil employés connected with them have heretofore been and are now paid from contingent of the Navy.

The clerks of the Secretary's office and the Judge-Advocate's office are now employed and paid from contingent of the Navy. The regular clerical force provided for in the annual executive appropriation bill is not sufficient to perform the current work of the department.

The two assistant messengers are now paid as laborers, one at $50 a month, from contingent of the Navy, the other $55 a month, from "ordnance." They are both needed, one of them for the Secretary of the Navy and the other for the chief clerk.

A branch printing office in the Navy Department is absolutely necessary for the prompt dispatch of business, as much matter cannot well be sent to the Government Printing Office, and again great delay is often avoided by being able to do certain kinds of printing in the department. The amount asked for covers the pay of its employés, now paid by the Public Printer, and contingencies which are now paid from contingent Navy.

The telegraphic office, the library, and the elevator require the services of the persons for which estimates are made. All these are now paid from contingent Navy.

The item extra-clerk hire, copying, and recording is to pay principally the ladies who are employed in indexing back records and answering the calls of Congress. These are now paid from contingent Navy.

Sheet No. 2 embraces estimates for the watchmen, laborers, and charwomen now employed and paid from different appropriations.

They are usefully employed, and during a great part of the next fiscal year the Navy Department expects to occupy the entire east wing of the building.

Sheet No. 3 embraces the force employed in certain bureaus of the department who are not provided for in the annual legislative appropriation act.

The chiefs of these bureaus represent the necessity of this force. No estimates have been submitted for the Signal Office and the Naval Dispensary.

The additional force required by the Bureau of Medicine and Surgery is necessary to facilitate calls connected with pensions, the records of which are on file in that bureau; these calls have greatly increased recently, which require the force asked for.

Very respectfully, your obedient servant,

WILLIAM H. HUNT,
Secretary of the Navy.

HON. FRANK HISCOCK,
Chairman Committee on Appropriations House of Representatives.

SHEET No. 1.—*Supplemental estimate of appropriations required for the service of the fiscal year ending June 30, 1883, by the Secretary's office, Navy Department.*

DETAILED OBJECTS OF EXPENDITURE AND EXPLANATIONS.

Inspection board (Admiral's office):	
One clerk	$1,500
One assistant messenger	660
Examining and retiring board:	
One clerk, class two	1,400
One assistant messenger	660
Office of the Judge-Advocate General:	
Two clerks, class one	2,400
One assistant messenger	600
Office of the Secretary of the Navy:	
Four clerks, class one	4,800
One clerk	1,080
Two assistant messengers, at $720 each	1,440
One telegraph operator	1,000
One messenger boy to telegraph operator	240
One laborer (care of the library)	720
One assistant conductor of elevator	500
One messenger boy	420
Branch printing office:	
One printer	1,300
Two assistant printers, one at $1,000, and one at $600	1,600
Contingencies	500
Extra clerk-hire, copying and recording	15,000
	35,820

SHEET No. 2.—*Supplemental estimate of appropriations required for the service of the fiscal year ending June 30, 1883, by the Navy Department building, Navy Department.*

One captain of the watch	$1,200
One second captain of the watch	900
Nine watchmen, at $720 each	6,480
One carpenter	1,080
Five laborers, at $660 each	3,300
One laborer (Board on Rebellion Record)	600
One superintendent of char-women	300
Eight char-women, at $180 each	1,440
	15,300

SHEET No. 3.—*Supplemental estimate of appropriations required for the service of the fiscal year ending June 30, 1883, by the various bureaus of the Navy Department.*

Bureau Yards and Docks:	
One clerk	$1,000
Bureau Equipment and Recruiting:	
One clerk, class one	1,200
One writer	900
Bureau Navigation:	
One clerk (Signal Office)	1,500
One clerk, class one	1,200
One laborer	660
Bureau Construction and Repair:	
One clerk	1,000
Bureau Steam Engineering:	
One clerk, class one	1,200
Bureau Provisions and Clothing:	
One clerk, class one	1,200
Three copyists, at $900 each	2,700
Two laborers, at $660 each	1,320
Bureau Medicine and Surgery:	
One assistant chemist (Naval Dispensary)	960
One janitor (Naval Dispensary)	600
Three writers, at $900 each (for pension cases)	2,700
One laborer	480
	18,620

INTERIOR DEPARTMENT.

[Reply to committee letter of 28th March.]

DEPARTMENT OF THE INTERIOR,
Washington, April 5, 1882.

SIR: In response to letter of your committee, dated 28th ultimo, I transmit herewith a statement relating to the Secretary's Office of this department, together with the responses of the several heads of bureaus (exclusive of the Pension Office), concerning the matters referred to in said communication.

Very respectfully,

S. J. KIRKWOOD,
Secretary.

Hon. FRANK HISCOCK,
Chairman Committee on Appropriations,
House of Representatives.

DEPARTMENT OF THE INTERIOR,
Washington, April 5, 1882.

SIR: In compliance with your letter of the 28th ultimo, I have the honor to transmit herewith a supplemental estimate for the addition to the appropriation for salaries, Office of the Secretary of the Interior, for the compensation of two skilled mechanics and three laborers, who are now paid from appropriations where there is no specific provision for salaries, viz, the appropriations for repairs of building and for expenses of packing and distributing Congressional documents.

Very respectfully,

S. J. KIRKWOOD,
Secretary.

The CHAIRMAN
of the Committee on Appropriations,
House of Representatives.

Salaries, Office Secretary of the Interior.

APPROPRIATION FOR FISCAL YEAR 1881-'82.

	Grade.	Total.
Secretary of the Interior	$8,000	$8,000
Assistant Secretary	3,500	3,500
Chief clerk	2,500	2,500
Chief clerk, as superintendent of Patent Office building	.....	250
Seven clerks, chiefs of divisions (including disbursing clerk)	2,000	14,000
One stenographer	1,800	1,800
Six clerks of class four	1,800	10,800
Four clerks of class three	1,600	6,400
Four clerks of class two	1,400	5,600
Seven clerks of class one (including telegraph operator)	1,200	8,400
One clerk	1,000	1,000
Eight copyists	900	7,200
One messenger	840	840
Seven assistant messengers	720	5,040
Five laborers	660	3,300
One captain of the watch	1,000	1,000
Forty watchmen	720	28,800
Additional to two watchmen acting as lieutenants of watchmen	120	240
One engineer	1,200	1,200
One assistant engineer	1,000	1,000
Six firemen	720	4,320
Office of Assistant Attorney-General.		
One law clerk	2,250	2,250
Three clerks	2,000	6,000
One clerk	1,200	1,200
Aggregate	.....	124,640

Salaries, Office Secretary of the Interior—Continued.

SUBMITTED ESTIMATES FOR FISCAL YEAR 1882-'83.

	Grade.	Total.
Secretary of the Interior	$8,000	$8,000
Assistant Secretary	3,500	3,500
Increase		1,000
Chief clerk	2,500	2,500
Increase		500
Additional to chief clerk, as superintendent of department building		250
Seven clerks, chiefs of divisions	2,000	14,000
Increase of $400 each		2,800
One stenographer	1,800	1,800
Increase		200
Six clerks of class four	1,800	10,800
Four clerks of class three	1,600	6,400
Four clerks of class two	1,400	5,600
Seven clerks of class one	1,200	8,400
One returns office clerk of class one	1,200	1,200
One clerk	1,000	1,000
Eight copyists	900	7,200
One chief messenger	1,000	1,000
One messenger	840	840
One messenger, submitted		840
Seven assistant messengers	720	5,040
Five laborers	660	3,300
One captain of the watch	1,000	1,000
Increase		200
Two lieutenants of the watch	840	1,680
Increase of $160 each		320
Thirty-eight watchmen	720	27,360
One engineer	1,200	1,200
One assistant engineer	1,000	1,000
Six firemen	720	4,320
Office of Assistant Attorney-General.		
One law clerk	2,250	2,250
Three clerks	2,000	6,000
One clerk of class one	1,200	1,200
Aggregate		132,700

AMENDED ESTIMATE FOR FISCAL YEAR 1882-'83.

Secretary of the Interior	$8,000	$8,000
Assistant Secretary	3,500	3,500
Increase		1,000
Chief clerk	2,500	2,500
Increase		500
Additional to chief clerk, as superintendent of department building		250
Seven clerks, chiefs of divisions	2,000	14,000
Increase of $400 each		2,800
One stenographer	1,800	1,800
Increase		200
Six clerks of class four	1,800	10,800
Four clerks of class three	1,600	6,400
Four clerks of class two	1,400	5,600
Seven clerks of class one	1,200	8,400
One returns office clerk of class one	1,200	1,200
One clerk	1,000	1,000
Eight copyists	900	7,200
One chief messenger	1,000	1,000
One messenger	840	840
One messenger, submitted		840
Seven assistant messengers	720	5,040
Five laborers	660	3,300
One captain of the watch	1,000	1,000
Increase		200
Two lieutenants of the watch	840	1,680
Increase of $160 each		320
Thirty-eight watchmen	720	27,360
One engineer	1,200	1,200
One assistant engineer	1,000	1,000
Six firemen	720	4,320
One skilled mechanic*	900	900
Do*	720	720
Two packers*	720	1,440
One laborer*	600	600

*Paid from appropriations other than the regular appropriations for salaries, namely, the appropriation for "Repairs of building, and for expenses of packing and distributing Congressional documents."

Salaries, Office Secretary of the Interior—Continued.

AMENDED ESTIMATE FOR FISCAL YEAR 1882-'83—Continued.

	Grade.	Total.
Office of Assistant Attorney-General.		
One law clerk	$2,250	$2,250
Three clerks	6,000	6,000
One clerk of class one	1,200	1,200
Aggregate		136,360

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., March 30, 1882.

SIR: I have the honor to acknowledge receipt, by your reference of 29th instant, of copy of letter of the 28th from the assistant clerk of House Committee on Appropriations, and, in compliance with its request and your directions, to report as follows:

The force authorized by law for this office for the current fiscal year is—

	Now employed.
Commissioner, $4,000.	Commissioner.
Chief clerk, $2,000.	Chief clerk.
Law clerk, $2,000.	Law clerk.
Recorder, $2,000.	Recorder.
3 principal clerks, at $1,800.	3 principal clerks.
16 clerks of class 4, at $1,800.	14 clerks class 4.
30 clerks of class 3, at $1,600.	25 clerks class 3.
40 clerks of class 2, at $1,400.	45 clerks class 2.
62 clerks of class 1, at $1,200.	53 clerks class 1.
30 clerks, at $1,000.	10 clerks.
15 copyists, at $900.	48 copyists.
1 draughtsman.	3 copyists, at $840.
1 assistant draughtsman.	
9 assistant messengers, at $720.	10 assistant messengers.
6 packers, at $720.	6 packers.
12 laborers, at $720.	12 laborers.

Under the recent deficiency appropriation of $25,000—

1 clerk of class 1, $1,200.	78 clerks, at $720.
3 clerks, at $1,000.	1 clerk at $660.
16 clerks, at $900.	1 clerk at $600.
3 clerks, at $840.	

My estimates for 1883 are as follows:

Commissioner, $5,000.	Chief draughtsman, $2,000.
Deputy commissioner, $3,000.	35 clerks of class 4, at $1,800 each.
3 inspectors of surveyor-general and district land offices, at $3,000 each.	50 clerks of class 3, at $1,600 each.
Chief clerk, $2,500.	60 clerks of class 2, at $1,400 each.
Law officer, $2,500.	55 clerks of class 1, at $1,200 each.
Recorder, $2,000.	35 copyists, at $900 each.
3 principal clerks, at $2,000 each.	Chief messenger, at $900.
6 chiefs of division, at $2,000 each.	8 assistant messengers, at $720 each.
Receiving clerk, $2,000.	6 packers, at $720 each.
	12 laborers, at $660 each.

It will be observed that to some extent the appropriations for the higher salaries have been used for the payment of employés in the lower grades. This arrangement was the result of an immense accumulation of approved settlement land entries, awaiting the writing and recording of patents, and other detail work of a low grade con-

nected therewith, and which, without inexcusable disregard of the rights of actual settlers, I was compelled to dispose of at the earliest moment possible, even if it involved the postponement of other business of a high grade, involving large values. This arrangement of salaries is only temporary, however, and as soon as the end of the current fiscal year the same will have been disposed of, and a rearrangement of salaries, and the employment of a different class of clerks, will be as necessary as was the temporary employment of said low-grade copyists.

The only change which I can recommend is to add to my former estimates two clerks, as general examiners, at $2,000; twenty-seven clerks, at $1,000; and five copyists, at $900.

After careful consideration, I can make no other rearrangement whatever, and submit this increased estimate for the following reasons:

1. A present knowledge of larger arrears than had come to my attention when the original estimate was made.

2. The additional force, in disposing of a larger number of cases (perfecting them for patent), will necessitate an additional number of patent writers and recorders, and, as under the specific classification now indicated by the House committee, no adjustment of the clerical force may be possible beyond the class and arrangement of salaries appropriated for, and as the higher clerkships are absolutely necessary in order to a disposition of the more difficult class of work, I am convinced that, without this additional estimate, I would be compelled to ask a deficiency appropriation during the year in order to properly perform the work.

The business of nearly all the divisions of this office has steadily, and, in several of the most important divisions, largely increased over what it was a few years ago. For illustration, I refer to the division having in charge the examination and decision of mineral-land entries, contests, and patenting the same.

On July 1, 1878, said division had 12 clerks.
On July 1, 1879, said division had 14 clerks.
On July 1, 1880, said division had 18 clerks.
On July 1, 1881, said division had 23 clerks.

At this date, March 30, 1882, it has 36 clerks, and its regular work is over one year in arrears, is increasing every month, and will doubtless increase for several years to come, while a larger class of work, aside from the regular disposition of entries, has been almost entirely neglected for some years.

This condition is not chargeable to any neglect whatever. The business presented for disposition has simply *increased*. In this connection it is not inappropriate to simply call attention to the land legislation of the last few years; to that now pending in Congress, and to the labor which new laws and methods of disposition impose upon this office; to the fact that the titles to two-thirds of all the territory of the United States emanate from this office; that the work resulting from being the custodian of proof and records relating thereto is in itself very large, and that meanwhile the current work on present claims, which, under all the various laws, are pressing for adjustment, increasing in numbers and difficulty, and affecting a large class of citizens, is daily growing in volume.

I merely add that the work cannot be done, and the public and individual interests cannot be served with a less clerical force than I have indicated.

Having thus communicated, in the brief, the necessities of this branch of the service, I have performed my duty, and leave the responsibility with the appropriate committee and Congress.

With reference to the appropriation for contingent expenses, district land-offices, I would state that a certain class of work, like preparing new tract books and transcribing therein the entries, filings, areas, &c., must be done in this office because the original records are here; other work arising from like necessities must be done in this office. It is impossible to foresee just what will be necessary in this class of work, as it is in its nature largely contingent upon future events. If it be necessary to make such estimate now, I would indicate the present number of employés now paid from said appropriation, to wit, one at $1,200, and six at $900 each.

Under the appropriation for swamp land claims there exists substantially the same difficulty in making specific estimate. A portion of the work is done in the field and a part is done here. The nearest estimate I can make is one clerk at $1,600, and seven at $1,200.

Under the appropriation for depredations on public timber there should be authorized—

1 agent, at	$1,600
1 agent, at	1,500
2 agents, at	1,400
24 agents, at	1,200

and their actual expenses.

I deem it very desirable, however, so far as these last three appropriations are concerned, that authority be given to use the money as the necessities of the service may require.

Copy of letter herewith returned.

Very respectfully,

N. C. McFARLAND,
Commissioner.

Hon. S. J. KIRKWOOD,
Secretary of the Interior.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, March 30, 1882.

SIR: I have the honor to acknowledge the receipt, by reference from the department, of a copy of a letter from the Committee on Appropriations, House of Representatives, asking in relation to the clerical force of this office, and, in reply thereto, I inclose herewith statement showing the number of employés of the several grades now allowed by law, and the number actually employed at this date. In regard to the request of the committee for information "how you desire that they shall be appropriated for for the fiscal year 1883," I would state that I think it would be for the best interest of the service to make the appropriation for the Indian Office, except in case of the chief clerk, three chiefs of division, and bookkeeper, as per my estimate, in bulk, and allow the Commissioner of Indian Affairs to pay the different employés such salaries as in his judgment the nature of their work and efficiency of the employés justify, the annual salary of any clerk in no case to exceed the sum of $1,800. But should this suggestion fail to meet the approval of the Committee on Appropriations, I recommend the following number of employés (in addition to the chief clerk, at $2,500 per annum): Three chiefs of division, at $2,400 per annum; one bookkeeper, at $1,800; three clerks of class 4; ten of class 3; one stenographer; sixteen of class 2; ten of class 1; thirteen clerks at $1,000; eight copyists, at $900; two messengers, at $840; two assistant messengers, at $720; and three laborers, at $660.

Should the three chiefs of division not be allowed, the appropriation for financial clerk as now made by law, at $2,000 per annum, should be made, and the number of fourth class clerks increased from three to six.

The increase in the messengers and laborers is especially recommended, from the fact that the rooms of the Commissioner and chief clerk are on the second story, and those of all the clerks on the first, and the limited number of messengers often requires high-grade clerks to devote part of their time to do errands, and attend to business in connection with their work which ought to be performed by messengers and laborers. I, would also add that the salary of the chief clerk should be increased as in my estimate. I also request that the solicitor estimated for be allowed.

Your recommendation for an assistant commissioner is one that should be allowed as any one acquainted with the business of the office will agree.

Very respectfully,

H. PRICE,
Commissioner.

Honorable SECRETARY OF THE INTERIOR.

INDIAN OFFICE.

	No. of employés allowed by law for 1881-'82.	No. of employés of each grade March 31, 1882.	Remarks.
Chief clerk	1	1	
Financial clerk	1	1	
Bookkeeper	1	1	
Stenographer	1	1	
Clerks class four	4	3	
Clerks class three	8	9	
Clerks class two	12	15	
Clerks class one	10	5	
Clerks at $1,000	13	10	
Copyists at $900	8	12	
Messengers	1	3	Two doing clerical work.
Assistant messengers	1	4	Three doing clerical work.
Laborers	2	4	One at $660; two at $600; and one at $360.

DEPARTMENT OF THE INTERIOR,
OFFICE OF COMMISSIONER OF RAILROADS,
Washington, March 30, 1882.

Hon. S. J. KIRKWOOD,
Secretary of the Interior:

SIR: I am in receipt of a communication of House of Representatives Committee on Appropriations referred by you to this office for "immediate attention and report."

I have the honor to reply to the question therein contained as follows:

Present force in the office, which corresponds with the legal appropriation, is—

	Annual salary.
Commissioner	$4,500 00
Bookkeeper	2,400 00
Assistant bookkeeper	2,000 00
Railroad engineer	2,500 00
1 second class clerk	1,400 00
1 copyist	900 00
1 messenger	600 00
Amounting in all to	14,300 00

It is submitted that the following estimate for salary appropriation for this bureau for the fiscal year ending June 30, 1883, be requested:

	Annual salary.
Commissioner	$5,000 00
Bookkeeper	2,500 00
Assistant bookeeper	2,000 00
Engineer	2,500 00
Clerk, class 4	1,800 00
Clerk, class 3	1,600 00
1 copyist	900 00
1 messenger	720 00
Amounting in all to	17,020 00

The appropriation for the current fiscal year for traveling expenses was $2,500, and for contingent expenses was $300.

The estimate submitted for the fiscal year ending June 30, 1883, was for traveling expenses, $3,000; and for contingent expenses, $500.

For law books and book cases $1,500 is required, to be expended under the direction of the Commissioner of Railroads.

I desire respectfully to call particular attention to the necessity of providing this office with the facilities for examining the various questions of law which arise in the discharge of its duties.

There are, at present, no railroad reports nor any other books which treat particularly of the rights and duties of railroads or their relations to the government in this department.

A few scattered and miscellaneous reports and the United States Statutes are all the law books now in this office.

The law books in the department have been selected chiefly in reference to the requirements of the different bureaus, which leaves this office especially bare in the class of books which it especially requires.

In selecting books I should avoid duplication of any which are now accessible in the department.

Any books purchased for this bureau would be accessible to any other in the department, and I believe would tend to promote the interests of the government.

Respectfully,

W. H. ARMSTRONG,
Commissioner.

DEPARTMENT OF THE INTERIOR,
UNITED STATES PATENT OFFICE,
Washington, D. C., April 5, 1882.

Hon. S. J. KIRKWOOD,
Secretary of the Interior:

SIR: I have the honor to acknowledge the receipt, by departmental reference, of a copy of a letter addressed to you on the 28th ultimo, by James C. Courts, assistant

clerk of the Committee on Appropriations, House of Representatives, requesting you "to submit estimates for whatever portion of the force now in service in your department included in said letter as are deemed absolutely necessary" (letter of the 16th ultimo).

In your letter of the 16th ultimo to the Chairman of the Committee on Appropriations of the House of Representatives, you mentioned a number of persons in this bureau who are paid for their services out of the contingent fund. It is impossible for me to submit an estimate as to the exact number of persons which may be required to perform such labor as those persons are now performing; four of them are carpenters, and are employed in making repairs in the different rooms occupied by this bureau, and the others are employed in moving copies of patents from the basement of the building to the west model hall. I hope in a short time to dispense with the services of nearly all, if not all, of these persons. It may be necessary, however, during the next fiscal year, to temporarily employ persons for similar work. From inquiry made, I learn that persons heretofore employed on this kind of work have always been paid out of the contingent fund, and have not been borne on any salary roll. I think it would be better to have the appropriation for the contingent expenses so drawn that such laborers may be paid out of that fund.

In relation to the next class of persons mentioned in your letter, viz: copyists of drawings, I herewith submit an estimate for the same number of persons now employed, and at the same salaries. I much prefer that the appropriation for these persons should be included in the regular appropriation for salaries.

For several years past this force has been paid out of the appropriation for photo-lithographing burnt and exhausted copies of patents of drawings.

In relation to the persons mentioned under the head of "abridgment of letters-patent," I have to state that the appropriation simply authorized the abridgment of patents issued by this office without specifying or designating how the force to do the work was to be paid. The persons mentioned in your letter have been paid out of that fund, because in that way, and that way only, could the work be commenced and carried on. I herewith submit an estimate for twelve clerks at $1,200 each, and three copyists at $900 each, for the continuation of the abridgments. With the present accommodations for rooms, this is as large a number of persons as can be well employed, and is the number I intended to employ on the work during the next year. The reason why I have increased the estimate for their salaries is because, having been employed on the work for several months, and thoroughly mastered it, their services will be worth, during the next year, the sum herein stated.

In relation to the request of the committee, in the last part of the letter, that "in all cases where in any bureau of your department, under the provisions of section 3 of the act of August 15, 1876, vol. 19, p. 169, Statutes at Large, clerks of a lower grade than those provided for in the law are employed," &c., I herewith submit a statement showing the number of persons provided for in the appropriation act for the fiscal year 1881–'82; the number of persons estimated for, for the fiscal year 1882–'83; the number of persons now employed in the bureau, and also the number of persons, under the head of "roll proposed," I desire to have provided for in the appropriation for this bureau during the next fiscal year.

Very respectfully, your obedient servant,

E. M. MARBLE,
Commissioner.

Persons employed in the Patent Office not specifically appropriated for, but estimated for, for 1883:

Now paid from appropriation for copies of drawings:

2 copyists of drawings, at $1,000	$2,000
6 copyists of drawings, at $900	5,400
4 copyists of drawings, at $720	2,880
12	10,280

Now paid from appropriation for abridgment of patents:

12 clerks, class 1	14,400
3 copyists	2,700
15	17,100

Regular roll.	Appropriation bill 1881-'82.		Estimates, 1882-'83.	Present roll. (Apr. 1, '82.)	Proposed roll.
	Each.	*Number.*	*Number.*	*Number.*	*Number.*
Commissioner	4,500	1	1	1	1
Assistant commissioner	3,000	1	1	1	1
Chief clerk	2,250	1	1	1	1
Submitted	250				
Examiners-in-chief	3,000	3	3	3	3
Examiners of interferences	2,500	1	1	1	1
Principal examiners, including examiners of trade-marks and designs.	2,400	25	25	25	25
Submitted for each	100				
Assistant principals	2,100				25
First assistant examiners	1,800	24	26	24	26
Second assistant examiners	1,600	24	26	23	26
Third assistant examiners	1,400	24	26	24	26
Financial clerk	2,000	1	1	1	1
Librarian	2,000	1	1	1	1
Chiefs of divisions	2,000	3	3	3	3
Assistant chiefs of divisions	1,800	1	5	1	3
Clerks, class four	1,800				2
Clerks, class three, including translator	1,600	5	4	4	4
Machinist	1,600	1	1	1	1
Clerks, class two	1,400	19	16	9	16
Clerks, class one	1,200	45	50	47	50
Skilled laborer	1,200	1	1	1	1
Skilled draftsmen	1,200	4	4	4	4
Draftsmen	1,000	3	3		3
Messenger and purchasing clerk	1,000	1	1	1	1
Submitted	200				
Clerks	1,000	42	42	27	30
Model attendants	1,000	5	5	5	5
Do	800	10	10	7	10
Copyists	900	70	90	102	100
Assistant messengers*	720	6	6	35	45
Skilled laborers*	720	12	12		
Tracers*	720	3	3	1	
Laborers	660	25	25	8	
Do	600	14	14	34	40
Do	480	30	30	32	25
Do	360			15	15
Total number		406	437	442	495
Total amounts		$480,870	$518,820	$492,410	$587,700

* To be classed as laborers.

WAR DEPARTMENT,
Washington City, April 17, 1882.

Hon. FRANK HISCOCK,
Chairman Committee on Appropriations, House of Representatives.

SIR: In compliance with the request of the committee, dated March 28, 1882, I have the honor to submit herewith supplemental estimates of amounts required for salaries of the clerical and other force in the War Department and bureaus for the fiscal year ending June 30, 1883. They include every person employed in the War Department and its bureaus in Washington, and will obviate the necessity of providing for any such services out of other appropriations.

These estimates have been prepared with great care, and, although they exceed the amounts now paid the force from current appropriations, I am of opinion that, in view of the very great increase of business in this department and its bureaus during the last ten years, and which is constantly increasing, the best interests of the service demand a more liberal compensation to the trained clerks and employés than that now received by them.

The pay of these faithful and efficient employés should be commensurate with their arduous and responsible duties, and at rates somewhat approaching those paid in the other executive departments, and I therefore respectfully recommend these estimates to the favorable consideration of the committee.

Very respectfully, your obedient servant,

ROBERT T. LINCOLN,
Secretary of War.

ESTIMATES FOR SALARIES, WAR DEPARTMENT AND ITS BUREAUS, 1883.

Estimates of appropriations required for the service of the fiscal year ending June 30, 1883, by the War Department.

OFFICE OF THE SECRETARY.

General object. (Title of appropriation.)	Detailed objects of expenditure, and explanations.	Date of acts, resolutions, or treaties, authorizing or providing for the expenditures.	References to Statutes at Large or to Revised Statutes. Vol. or R. S.	Page.	Sec.	Estimated amount which will be required for each detailed object of expenditure.	Total amount to be appropriated under each head of appropriation.	Amount appropriated for the current fiscal year ending June 30, 1882.
Salaries, Office of Secretary of War.	Secretary		R. S.	35	214	$8,000 00		
	Chief clerk (increase submitted)					3,000 00		
	NOTE.—Section 215 of the Revised Statutes as amended February 27, 1877, prescribes that the chief clerk shall, in the absence of, or when there is a vacancy in the office of the Secretary of War, have charge and custody of all records, books, and papers appertaining to said department, and the act of March 4, 1874, (18 Statutes, 19), authorizes the chief clerk, in the absence of the Secretary, when so directed by him, to sign requisitions and other papers. In view of the great labor and responsibility devolving upon the chief clerk, there being no assistant secretary in this department, his salary should be $3,000.							
	Disbursing clerk (increase submitted)		R. S.	35	215	2,400 00		
	NOTE.—The office of disbursing clerk was created and the compensation fixed by the act of March 3, 1853 (vol. 10, Statutes at Large, p. 211). At that time the civil force of this department consisted of sixty-two clerks of all grades, whose annual salaries aggregated about $90,000. There are now on the civil list 918 persons, with an annual salary total exceeding $1,100,000, and a contingent-fund account of about $100,000 more. In the Treasury Department there are five disbursing clerks, two of whom receive each a compensation of $2,500 per annum, and the disbursing clerk of the Interior Department is allowed $1,000 per annum, in addition to his regular salary, for disbursing the appropriation for care and improvement of the Capitol buildings and grounds, making his compensation $3,000 per annum. In view of the great increase of labor and responsibility devolved upon the disbursing clerk his salary should be increased to $2,400.							

Three chiefs of divisions at $2,250 each (increase submitted)	Mar. 3, 1881	21	402	1	6,750 00	
NOTE.—One additional chief of division for division of requisitions and accounts is now estimated for, in lieu of the officer of infantry who has been relieved from duty, and who received per annum pay and allowances amounting to $3,231.96. The chiefs of divisions in the office of the Secretary of War have similar duties and responsibilities as the chiefs of divisions in the other executive departments, and should have equal pa In the office of the Secretary of the Treasury this grade is paid at the rate of $2,500 to $2,750 per annum. In justice to these three clerks they should be placed on an equal footing with the same grade in the other executive departments.						
Four clerks at $2,000 each	Submitted				8,000 00	
NOTE.—This item is for one clerk in the office of the chief clerk and for three assistant chiefs of divisions. Assistant chiefs of divisions in the office of the Secretary of the Treasury receive from $2,000 to $2,400 each, and the four clerks who act as assistant chiefs of divisions in this office should be adequately compensated therefor.						
Stenographer (increase submitted)	Mar. 3, 1881	21	402	1	2,000 00	
NOTE.—The position is an arduous one and of great responsibility, calling for the services of a stenographer of experience and special ability. The stenographer to the Secretary of the Treasury receives a salary of $2,000, the amount of this estimate for stenographer to Secretary of War.						
Five clerks of class four	do				9,000 00	
Five clerks of class three	do				8,000 00	
NOTE.—Including one clerk of class three now paid from the appropriation for rebel archives branch.						
Five clerks of class two	do				7,000 00	
NOTE.—Including one clerk of class two now paid from appropriation for rebel archives branch.						
Twenty-seven clerks of class one	do				32,400 00	
NOTE.—There are now authorized, by the legislative appropriation act, fifteen clerks of class one, and one clerk at $1,000, under the title "Salaries, office of Secretary of War," three clerks of class two, under the title * * "Rebel archives branch," and one clerk is paid $1,000 from appropriation for "Examinations and surveys at South Pass"; there are also six general-service sergeants and nine general-service privates, making in all thirty-two men of class one and under, and in place of the thirty-two men who are efficient clerks and have long been in government employ, and thoroughly competent, it is proposed to promote five to a higher grade, and substitute twenty-seven clerks of class one. There are now						

Estimates of appropriations required for the service of the fiscal year ending June 30, 1883, &c.—Continued.

OFFICE OF SECRETARY—Continued.

General object. (Title of appropriation.)	Detailed object of expenditure, and explanations.	Date of acts, resolutions, or treaties, authorizing or providing for the expenditures.	Reference to Statutes at Large or to Revised Statutes. Vol. or R. S.	Page.	Sec.	Estimated amount which will be required for each detailed object of expenditure.	Total amount to be appropriated under each head of appropriation.	Amount appropriated for the current fiscal year ending June 30, 1882.
Salaries, office of Secretary of War—Cont'd.	fifty-two clerks in the office of Secretary of War, and that number is provided for in this proposed organization. The whole number now employed is necessary for the transaction of the public business, and will be needed to be appropriated for under the proposed organization, which does not include the ten clerks asked in House Ex. Doc. No. 134 to meet the demands arising from calls from Commissioner of Pensions for requests upon private claims.							
	Two messengers, at $840 each	Mar. 3, 1881	21	402	1	$1,680 00		
	Six assistant messengers, at $720 each	do				4,320 00		
	Six watchmen, at $720 each	do				4,320 00		
	Seven laborers, at $660 each	do				4,620 00		
							$101,400 00	*$95,018 10

* Appropriated under titles as follows:

Salaries, office of Secretary of War	$69,640 00
Salaries, * * * rebel archives branch	6,600 00
Appropriations for the Army	18,778 10
	95,018 10

OFFICE OF THE ADJUTANT-GENERAL.

Salaries, office of Adjutant-General.	Chief clerk		R. S.	35	215	$2,000 00		
	Fifteen clerks of class four		R. S.	27	167	27,000 00		
	NOTE.—To provide for merited promotion of four clerks from class three, and for a sufficient number in this grade to properly supervise the work in the several divisions of the office.							
	Thirty-five clerks of class three		R. S.	27	167	56,000 00		

NOTE.—To provide for merited promotion of eighteen clerks from class two, in addition to the promotions to succeed those promoted to class four, and for the number required in this grade to have charge of the work and immediate direction of the distribution and dispatch of business in the various subdivisions of the office.							
Fifty clerks of class two			27	167	70,000 00		
NOTE.—To provide for merited promotion of fifteen clerks from class one, in addition to the promotions to succeed those promoted to class three, and for the number required in this grade to give, under direction of clerks in charge, personal attention to work in the hands of the force of clerks in the different rooms, and to keep the necessary records of the receipt and disposition of official papers.							
Two hundred and thirteen clerks of class one		R. S.	27	167	255,600 00		
NOTE.—To replace thirty-two general-service clerks who will remain to be provided for after thirty-seven have been appointed to vacancies caused by promotion to the higher grades.							
Thirty-nine clerks, at $1,000 each	June 19, 1878	20	196	1	39,000 00		
NOTE.—To replace eight general-service clerks not provided for in class one.							
Five messengers, at $840 each		R S.	27	177	4,200 00		
NOTE.—To replace five messengers, now in the general service, whose duties entitle them to a higher grade than assistant messenger.							
Forty-four assistant messengers, at $720 each		R. S.	27	167	31,680 00		
NOTE.—To replace thirty-five messengers now in the general service.							
Twenty watchmen, at $720 each		R. S.	27	167	14,400 00		
						499,880 00	498,071 24
NOTE.—To replace twenty watchmen now in the general service. The civilian clerks authorized by the legislative, &c., appropriation act of March 3, 1881, are paid $352,680 therefrom, and the enlisted men, authorized by the act of March 3, 1875 (Sup. to Revised Statutes, p. 156, par. 5), and the act of March 3, 1881 (21 Statutes, p. 404), are paid $145,391.24 from appropriations for the Army, act of February 24, 1881. Total $498,071.24.							

ADJUTANT-GENERAL'S OFFICE, *April* 11, 1882.

* * I have stated the number of clerks to be fixed for the several grades higher than class one, after due consideration of the needs of the office, the character of the work performed, and the responsible positions to be filled; and I have been exceedingly careful not to exceed the just proportion of such grades due to the whole number of clerks employed. I am quite satisfied that an increased supervisory force is absolutely necessary to facilitate the working of my office.

This organization does not include the increase of force (5 clerks of class four, 8 clerks of class three, 12 clerks of class two, 125 clerks of class one, 7 assistant messengers at $720, 7 watchmen at $720, and 3 laborers at $660 per annum) asked for by letter of March 16, 1882, in which the reasons that make the increase necessary were fully stated, and which, with the letter of the Secretary of War to the President and the President's message transmitting the same to Congress, is printed in Executive Document No. 134, House of Representatives, 47th Congress, 1st session.

* * * * * * * * * * *

R. C. DRUM,
Adjutant-General.

Estimates of appropriations required for the service of the fiscal year ending June 30, 1883, &c.—Continued.

OFFICE OF INSPECTOR-GENERAL.

General object.	Detailed objects of expenditure, and explanations.	Date of acts, resolutions, or treaties authorizing or providing for the expenditures.	References to Statutes at Large, or to Revised Statutes. Vol. or R. S.	Page.	Sec.	Estimated amount which will be required for each detailed object of expenditure.	Total amount to be appropriated under each head of appropriation.	Amount appropriated for the current fiscal year ending June 30, 1882.
Salaries, office of Inspector-General.	One clerk of class four	.....	R. S.	35	215	$1,800 00		
		June 30, 1874	18	101	1			
		Mar. 3, 1881	21	402	1			
	One clerk of class one	.....	R. S.	27	167	1,200 00		
	NOTE.—This clerk of class one is in lieu of the enlisted man now employed as a clerk in the Inspector-General's Department, under Special Order No. 219, Adjutant-General's Office, October 11, 1878, who is paid $1,105.42 from the appropriations for the Army.							
	One messenger (instead of one assistant messenger as now authorized)	Same acts	.....	.....	.....	840 00	$3,840 00	$3,625 42

BUREAU OF MILITARY JUSTICE.

Salaries, office of Military Justice.	Chief clerk	.....	R. S.	35	215	$2,000 00		
		June 30, 1874	18	101	1			
		Mar. 3, 1881	21	402	1			
	NOTE.—By section 215 of the Revised Statutes, the salary of the chief clerk of this office is fixed at $2,000 a year, but for some unaccountable reason only $1,800 was appropriated last year. The rate fixed by law is the basis of this estimate.							
	Two clerks of class four	Submitted	R. S.	27	167	3,600 00		
	Two clerks of class three (one submitted)	Mar. 3, 1881	21	402	1	3,200 00		
	One clerk of class two	Submitted	R. S.	27	167	1,400 00		
	Four clerks of class one (three submitted)	Mar. 3, 1881	21	402	1	4,800 00		
	One clerk	Submitted	.....	.....	.....	1,000 00		

Estimates of appropriations required for the service of the fiscal year ending June 30, 1883, &c.—Continued.

BUREAU OF MILITARY JUSTICE—Continued.

General object.	Detailed objects of expenditure, and explanation.	Date of acts, resolutions, or treaties, authorizing or providing for the expenditures.	References to Statutes at Large, or to Revised Statutes. Vol. or R. S.	Page.	Sec.	Estimated amount which will be required for each detailed object of expenditure.	Total amount to be appropriated under each head of appropriation.	Amount appropriated for the current fiscal year ending June 30, 1882.
laries, office of Military Justice—Cont'd.	Two copyists, at $900 each	Submitte				$1,800 00		
	One messenger	do	R. S.	27	167	840 00		
	One assistant messenger	Mar. 3, 1881	21	402	1	720 00		
	One laborer	Submitted				660 00	$20,020 00	$11,990 93
	NOTE.—The clerical services contemplated to be performed by the additional clerks estimated for will be of a high order, requiring judgment, discretion, and education, such as will enable this office to dispense with the services of commissioned officers detailed in it for duty, in order that these officers may be assigned to departments where they belong, and where their services are greatly needed. As this bureau is called upon to advise on questions touching the rights, duties, &c., of officers and soldiers, and on miscellaneous questions of law arising in the administration of the War Department, as well as to revise and review all cases of courts-martial in the service, an adequate and efficient clerical force is imperatively required. The present force of clerks is entirely inadequate to efficiently discharge the duties coming within the scope of this office. With the view, therefore, of increasing the efficiency of the office, and to meet the wants and necessities of the public service, the increase in the clerical force submitted is deemed to be absolutely necessary. An increase of two clerks is necessary to prepare reports in pension cases. The chief clerk, two clerks, and one assistant messenger, are authorized by the legislative, &c., appropriation act of March 3, 1881, and are paid $5,320 therefrom; one clerk to judge-advocate, transferred from Fort Leavenworth, Kansas, is paid $1,500; three enlisted men (of the thirty authorized by said act for the War Department) employed as clerks, are paid $3,215.27; and one enlisted man (of the thirty so authorized) is employed as a messenger and paid $955.66, making amount paid from Army appropriations $5,670.93.							

SIGNAL CFFIOE.

Salaries, Signal Office	Civilian assistant					$4,500 00		
	Two clerks of class four					3,600 00		
	Two clerks of class three					3,200 00		
	One clerk of class one					1,200 00		
	Three computers, at $1,800 each					5,400 00		
	Six clerks, at $1,000 each					6,000 00		
	Three copyists, at $840 each					2,520 00		
	Nine copyists, at $720 each					6,480 00		
	Eight copyists, at $600 each					4,800 00		
	One printer					900 00		
	One printer					600 00		
	One watchman					1,000 00		
	Five watchmen, at $720 each					3,600 00		
	Two carpenters, at $720 each					1,440 00		
	One carpenter					600 00		
	Five press-boys, at $360 each					360 00		
	One press-boy					240 00		
	Two messengers, at $840 each					1,680 00		
	Four assistant messengers, at $600 each					2,400 00		
	Five assistant messengers, at $480 each					2,400 00		
	Two laborers, at $660 each					1,320 00		
	Three laborers, at $420 each					1,260 00		
	One laborer					300 00		
							$55,800 00	*$51,405 99

*Appropriated as follows:

Salaries, Signal Office	$5,520 00
Observation and report of storms	40,620 00
Signal service	900 00
Appropriations for the Army	4,365 99
Total	51,405 99

NOTE.—See letter of April 12, 1882, from Acting Chief Signal Officer.

WAR DEPARTMENT,
OFFICE OF THE CHIEF SIGNAL OFFICER,
Washington City, April 12, 1882.

SIR: Referring to circular from the department, dated the 5th instant, directing the chiefs of bureaus to frame an organization of their respective offices which shall include the entire number of persons employed in any capacity, and to be graded as nearly as may be practicable in conformity to the grades recognized in the legislative, executive, and judicial appropriation bill, I have the honor to inclose herewith a classification of the employés of this office, graded as nearly as is practicable.

The number of employés of the different classes and grades, specified in the inclosed list, is the least possible that can properly discharge the duties now devolving upon this office.

The pay-rolls of the civil employés at this office for the month of March last aggregate $3,965, which for one year amounts to $47,580, a sum less than is provided for in the inclosed memorandum of organization of only $4,780 per annum, and this difference is nearly balanced by the pay of three general-service men, provided for in the proposed organization.

Two clerks of class four and one of class one and one assistant messenger are now provided for by law for this office. The proposed organization provides for two additional clerks of class three; this, however, will be but an increase of $200 per annum, as the persons employed are now receiving a compensation of $125 per month, their duties being of a scientific character and very valuable to the office.

The three computers (assistants to the civilian assistant to the Chief Signal Officer) are now receiving each a compensation of $1,600 per annum, but with the understanding that their salary will be annually increased to $1,700 and to $1,800 if their employment should continue.

In the event of the civil employés of this office being provided for as contemplated by the honorable Secretary, I would recommend that the Chief Signal Officer be allowed discretionary power to a limited extent in employing civilians temporarily in time of emergency. The increasing work of the office demanding an increasing force of employés, makes it certain that a discretionary authority to employ such a force should, as heretofore, be vested in the Chief Signal Officer.

I am, sir, very respectfully, your obedient servant,

JAS. W. POWELL,
Captain Sixth Infantry, Acting Chief Signal Officer.

To the honorable the SECRETARY OF WAR.

Estimates of appropriations required for the service of the fiscal year ending June 30, 1883, *&c.*—Continued.

OFFICE OF THE QUARTERMASTER-GENERAL.

General object. (Title of appropriation.)	Detailed objects of expenditure and explanations.		Date of acts, resolutions, or treaties authorizing or providing for the expenditures.	References to Statutes at Large or to Revised Statutes. Vol. or R. S.	Page.	Sec.	Estimated amount which will be required for each detailed object of expenditure.	Total amount to be appropriated under each head of appropriation.	Amount appropriated for the current fiscal year ending June 30, 1882.
Salaries, office of Quartermaster-General.	Chief clerk			R. S.	35	215	$2,000 00		
	Seven clerks of class four			R. S.	27	167	12,600 00		
	Nine clerks of class three			R. S.	27	167	14,400 00		
	Twenty-four clerks of class two			R. S.	27	167	35,000 00		
	Fifty-seven clerks of class one			R. S.	27	167	68,400 00		
	Four clerks, at $1,000 each		June 19, 1878	20	195	1	4,000 00		
	Twenty-one copyists, at $900 each						18,900 00		
	One messenger			R. S.	27	167	840 00		
	Two assistant messengers, at $720 each			R. S.	27	167	1,440 00		
	One female messenger, at $40 per month						480 00		
	Seven watchmen, at $720 each			R. S.	27	167	5,040 00		
	Eight laborers, at $660 each		Mar. 3, 1881	21	402	1	5,280 00		
	One draughtsman		Same act				1,800 00		
	One mechanical engineer						1,800 00		
	One engineer		Mar. 3, 1881	21	402	1	1,200 00		
	One fireman		Same act				720 00		
								$173,900 00	$167,035 29
	NOTE.—The chief clerk, 126 clerks, copyists, messengers, assistant messengers, watchmen, laborers, fireman, female messenger, engineer, and draughtsman, authorized by the legislative, &c., appropriation act of March 3, 1881, are paid therefrom	$152,240 00							
	One mechanical engineer, authorized by the Quartermaster-General October 21, 1878, and 12 enlisted men, authorized by the act above cited, employed as clerks and messengers, are paid from Army appropriations	14,230 29							
	One laborer, one charwoman, and one washerwoman, authorized by the Quartermaster-General, are paid from "Contingent expenses, Quartermaster-General's Office"	565 00							
	Total	167,035 29							
	Letter from Quartermaster-General April 17, 1882, herewith.								

WAR DEPARTMENT, QUARTERMASTER-GENERAL'S OFFICE,
Washington, D. C., April 17, 1882.

SIR: I have the honor to request that the proposed plan for the reorganization of the clerical and other force of this office, submitted with my letter of the 11th instant, may be so far amended as to include four chiefs of division, at $2,000 each.

Very respectfully, your obedient servant,

RUFUS INGALLS,
Quartermaster-General, Brevet Major-General, U. S. A.

To the honorable the SECRETARY OF WAR.

Estimates of appropriations required for the service of the fiscal year ending June 30, 1883, &c.—Continued.

OFFICE OF THE COMMISSARY-GENERAL.

General object. (Title of appropriation.)	Detailed objects of expenditure, and explanations.	Date of acts, resolutions, or treaties, authorizing or providing for the expenditures.	References to Statutes at Large, or to Revised Statutes. Vol. or R. S.	Page.	Sec.	Estimated amount which will be required for each detailed object of expenditure.	Total amount to be appropriated under each head of appropriation.	Amount appropriated for the current fiscal year ending June 30, 1882.
Salaries, office of Commissary-General.	Chief clerk	Mar. 3, 1881	21	403	1	$2,000 00		
	Two clerks of class four (one submitted)	do				3,600 00		
	Four clerks of class three	do				6,400 00		
	Five clerks of class two	do				7,000 00		
	Twelve clerks of class one	do				14,400 00		
	Eight clerks, at $1,000 each	do				8,000 00		
	One messenger	do				840 00		
	One assistant messenger	do				720 00		
	Two watchmen, at $720 each	do				1,440 00		
	Two laborers, at $660 each	do				1,320 00	$45,720 00	$43,528 87
	NOTE.—The civilian force now authorized by the legislative, &c., appropriation act of March 3, 1881, who are paid $31,680 therefrom; nine enlisted men employed as clerks, and one enlisted man employed as messenger, are authorized by said act for the Commissary-General's Office, and are paid $10,764.06; also, one enlisted man (of the thirty authorized by said act on page 404) is paid $1,084.81, making the amount paid the enlisted men from appropriations for the Army, $11,848.87. Total, $43,528.87.							

OFFICE OF SURGEON-GENERAL.

Salaries, office of Surgeon-General.	Chief clerk	Mar. 3, 1881	21	403	1	$2,000 00		
	Nineteen clerks of class four	do				34,200 00		
	Twenty-one clerks of class three	do				33,600 00		
	Forty-one clerks of class two	do				57,400 00		
	One hundred and six clerks of class one	do				127,200 00		
	Sixty clerks, at $1,000 each	do				60,000 00		
	Anatomist	do				1,800 00		
	Engineer in division of records and museum	do				1,400 00		

Estimates of appropriations required for the service of the fiscal year ending June 30, 1883, &c.—Continued.

OFFICE OF SURGEON-GENERAL—Continued.

General object. (Title of appropriation.)	Detailed objects of expenditure, and explanations.		Date of acts, resolutions, or treaties, authorizing or providing for the expenditures.	References to Statutes at Large or to Revised Statutes. Vol. or R. S.	Page.	Sec.	Estimated amount which will be required for each detailed object of expenditure.	Total amount to be appropriated under each head of appropriation.	Amount appropriated for the current fiscal year ending June 30, 1882.
Salaries, office of Surgeon-General—Cont'd.	Four messengers, at $840 each		Mar. 3, 1881	21	403	1	$3,360 00		
	Eight assistant messengers, at $720 each		do				5,760 00		
	Six watchmen, at $720 each		do				4,320 00		
	Eight laborers, at $720 each		do				5,760 00	$336,800 00	$308,937 67
	NOTE.—By the promotion to the higher grades, vacancies are caused in class one, which provide for replacing 22 general service clerks—two of whom belong to the War Department detachment of thirty; one clerk paid from appropriation for furnishing trusses, and one clerk of class one detailed from the Quartermaster-General's Office, under section 166 of the Revised Statutes, and for 34 clerks from the grade at $1,000 per annum, whose efficiency and faithful service in their special work entitle them to promotion.								
	The salary of the anatomist should be $1,800; it is now $1,600.								
	This organization *does not* include the increase of force asked for in letter of March 16, 1882, to facilitate the settlement of pension claims, and in which the reasons for an increased number of clerks of the higher grades is fully set forth, which letter was transmitted by the Secretary of War to the President, and by the President to Congress in his message of March 23, 1882, and is embodied in Executive Document No. 134, House of Representatives, present Congress.								
	The civilian clerks authorized by the legislative, etc., appropriation act of March 3, 1881, are paid therefrom	$280,980 00							
	The enlisted men authorized by same act, employed as clerks, are paid from appropriations for the Army	23,397 67							
	One clerk and one messenger authorized by par. 1414, A. R. 1881, and order of Secretary of War May 26, 1877, are paid from appropriation for medical and hospital department	2,160 00							
	And one clerk authorized by sections 1176, 1177, and 1178, R. S., is paid from appropriation for furnishing trusses	1,200 00							
	Total	308,937 67							

OFFICE OF THE CHIEF OF ORDNANCE.

Salaries, office of Chief of Ordnance.	Chief clerk		R. S.	35	215	$2,000 00		
	Three clerks of class four		R. S.	27	167	5,400 00		
	Six clerks of class three		R. S.	27	167	9,600 00		
	Eight clerks of class two		R. S.	27	167	11,200 00		
	Ten clerks of class one		R. S.	27	167	12,000 00		
	Four clerks, at $1,000 each	June 19, 1878	20	196	1	4,000 00		
	Two messengers, at $840 each		R. S.	27	167	1,680 00		
	One assistant messenger		R. S.	27	167	720 00		
	One laborer					660 00	$47,260 00	$42,652 00
	NOTE.—The chief clerk, thirteen clerks, assistant messenger, and laborer, authorized by the legislative, &c., appropriation act of March 3, 1881 (21 Statutes, 403), are paid $20,380 therefrom; the enlisted men authorized by said act, employed as clerks and messengers, are paid $22,272 from the Army appropriation act of February 24, 1881; total, $42,652.							

OFFICE OF PAYMASTER-GENERAL.

Salaries, office of Paymaster-General.	Chief clerk	Mar. 3, 1881	21	403	1	$2,000 00		
	Six clerks of class four	do				10,800 00		
	Eight clerks of class three (one submitted)	do				12,800 00		
	Twelve clerks of class two	do				16,800 00		
	Ten clerks of class one	do				12,000 00		
	Five clerks, at $1,000 each	do				5,000 00		
	One assistant messenger	do				720 00		
	Two watchmen, at $720 each	do				1,440 00		
	Three laborers, at $660 each	do				1,980 00	$63,540 00	$59,809 42
	NOTE.—This shows an actual increase of three clerks, viz., one of class three, one of class one, and one of $1,000, as, in compliance with the circular, it is proposed to add to class three the clerk now engaged in the bounty division and paid from the civil appropriation bill, and one to the $1,000 class, now paid as general service clerk. Thus, while two clerks are proposed to be added to each of these classes, there is really one of each added to the present force of the bureau. In consequence of the large and increasing number of calls for information from the Second Auditor in reference to pay of officers, back pay, and bounty of enlisted men and other calls from the Court of Claims and Congress, the business of the office has fallen in arrears, and the increase is necessary to bring and keep it up promptly and satisfactorily. The employés are now paid from appropriations as follows:							
	Salaries, office of Paymaster-General $57,140 00							
	Collection and payment of bounty, &c 1,600 00							
	Army appropriations 1,069 42							
	Total 59,809 42							

Estimates of appropriations required for the service of the fiscal year ending June 30, 1883, &c.—Continued.

OFFICE OF CHIEF OF ENGINEERS.

General object. (Title of appropriation.)	Detailed objects expenditure, and explanations.		Date of acts, resolutions, or treaties authorizing or providing for the expenditures.	References to Statutes at Large or to Revised Statutes. Vol. or R. S.	Page.	Sec.	Estimated amount which will be required for each detailed object of expenditure.	Total amount to be appropriated under each head of appropriation.	Amount appropriated for the current fiscal year ending June 30, 1882.
Salaries, office of Chief of Engineers.	Chief clerk						$2,250 00		
	Four division clerks, at $2,000 each						8,000 00		
	Five clerks of class four			R. S.	27	167	9,000 00		
	Four clerks of class three			R. S.	27	167	6,400 00		
	Nine clerks of class two			R. S.	27	167	12,600 00		
	Thirteen clerks of class one			R. S.	27	167	15,600 00		
	Seven clerks, at $1,000 each		June 19, 1878	20	195	1	7,000 00		
	Six draughtsmen, at $1,800 each						10,800 00		
	One draughtsman						1,600 00		
	One draughtsman						1,400 00		
	Two draughtsmen, at $1,200 each						2,400 00		
	One draughtsman						1,000 00		
	One assistant engineer						1,000 00		
	Four messengers, at $840 each			R. S.	27	167	3,360 00		
	Two skilled laborers, at $720 each						1,440 00		
	One assistant messenger			R. S.	27	167	720 00		
	One watchman			R. S.	27	167	720 00		
	Two laborers, at $660 each			R. S.	27	167	1,320 00	$86,610 00	$77,269 33
	NOTE.—The chief clerk, thirteen clerks, assistant messenger, and two laborers authorized by the legislative, &c., appropriation act of March 3, 1881, are paid therefrom	$23,240 00							
	Nine draughtsmen, ten clerks, two messengers, and two laborers authorized by the Secretary of War and Chief of Engineers under act of June 20, 1874 (Sup. to Revised Statutes, page 47, par. 26), are paid from appropriations for rivers and harbors, fortifications, and surveys of military defenses	32,000 00							
	Nineteen enlisted men authorized by act of June 20, 1874, above cited, employed as clerks, draughtsmen, messengers, and mechanic, are paid from appropriations for the Army	22,029 33							
	Total	77,269 33							

OFFICE OF THE CHIEF OF ENGINEERS,
UNITED STATES ARMY,
Washington, D. C., April 11, 1882.

SIR: In compliance with the department circular of April 5, I have the honor to submit herewith an organization framed for this office, in tabulated form, including every person employed in any capacity, graded as nearly as practicable in conformity to the grades recognized in the legislative, executive, and judicial appropriation act.

The two civil engineers included in the table submitted are men of high professional attainments, whose services are indispensable to the discharge of the duties of this office until such time as the number of officers of the corps shall be so increased as to afford officers in their places.*

The present temporary clerks, in addition to the permanent organization, are all necessary at this time. Their number depends largely on the amount appropriated for the works of fortification and river and harbor improvement, being increased or diminished as necessity may require; and it does not seem to me wise to add them to the permanent organization regardless of such necessity. This temporary force is paid out of the contingent appropriations for fortifications and rivers and harbors.

Similar considerations apply to the enlisted general-service clerks and other employés. Their present number not being fixed, but varying with the wants of the office, seems to me judicious; and any proposition to add them to the permanent organization does not therefore commend itself to my judgment as being in the interest of economy or efficiency.

Very respectfully, your obedient servant,

H. G. WRIGHT,
Chief of Engineers, Brig. and Brevet Maj. Gen.

Hon. ROBERT T. LINCOLN,
Secretary of War.

[Indorsement.]

WAR DEPARTMENT,
April 17, 1882.

The Secretary of War recognizes the considerations which require that the force employed by the Chief of Engineers varies in number according to the amount of work to be done, and the appropriations available, but he thinks that it would be quite as well for the bureau, and much better as a system, that the employés should all be paid out of the regular appropriations for that purpose and not as now from various sources. This applies especially to the class of general-service clerks, whom the Secretary considers it very desirable should be replaced by civilian clerks. It would seem easy to make a provision respecting the office of the Chief of Engineers which should be sufficient for all work, but it would be assumed that the Chief of Engineers would recommend the discharge of unnecessary employés, and the Secretary of War would certainly not direct unnecessary employés to be taken on the roll even if there was an appropriation sufficient to pay them.

ROBERT T. LINCOLN,
Secretary of War.

* The two civil engineers are not included in the estimate, for the reason that they are considered a part of the permanent force of the Engineer Corps, and are liable to be ordered for duty whenever the necessities of the service require.

Estimates of appropriations required for the service of the fiscal year ending June 30, 1883, &c.—Continued.

OFFICE OF PUBLICATION OF RECORDS OF THE REBELLION.

General object. (Title of appropriation.)	Detailed objects of expenditure, and explanations.	Date of acts, resolutions, or treaties authorizing or providing for the expenditures.	References to Statutes at Large or to Revised Statutes. Vol. or R. S.	Page.	Sec.	Estimated amount which will be required for each detailed object of expenditure.	Total amount to be appropriated under each head of appropriation.	Amount appropriated for the current fiscal year ending June 30, 1882.
Salaries, office of Publication of Records of the Rebellion.	Agent	Mar. 3, 1881	21	445	1	$2,400 00		
	Chief clerk	do				2,000 00		
	One clerk of class four	do				1,800 00		
	Two clerks of class three	do				3,200 00		
	One clerk of class one	do				1,200 00		
	One clerk	do				1,000 00		
	Eighteen copyists, at $900 each	do				16,200 00		
	Three assistant messengers, at $720 each	do				2,160 00		
	Two watchmen, at $720 each	do				1,440 00		
	Two proof-readers, at $1,600 each	do				3,200 00		
	Two copy-holders, at $900 each	do				1,800 00		
	Foreman of printing office	do				1,600 00		
	Assistant foreman	do				1,200 00		
	Pressman	do				1,200 00		
	Five compositors, at $1,000 each	do				5,000 00		
	One laborer	do				660 00		
							$46,060 00	$39,680 00

WAR DEPARTMENT BUILDINGS.

Salaries, superintendent, &c., War Department building.	Superintendent (increase submitted)	Mar. 3, 1881	21	404	1	$1,800 00		
	NOTE.—It is proposed to place a responsible person in charge of the War Department building and public property therein, and employés named below, and who should have charge of the purchases of supplies for the building, repairs, &c. The assistant superintendent of the Treasury Department receives $1,800, and that amount is asked for the superintendent of the War Department building.							

	Foreman of stable	Submitted				1,200 00		
	NOTE.—This will replace a general-service sergeant who now receives $1,192, from appropriations for the Army.							
	Engineer in charge of heating the building	Mar. 3, 1881	21	404	1	1,200 00		
	Assistant engineer	do				1,000 00		
	Machinist					900 00		
	NOTE.—The machinist now employed is paid $900, from the "contingent expenses War Department building."							
	Conductor of elevator	Mar. 3, 1881	21	404	1	720 00		
	Four watchmen, at $720 each	do				2,880 00		
	One skilled laborer					720 00		
	NOTE.—One skilled laborer (carpenter) now employed is paid $720, from "contingent expenses War Department building."							
	One fireman					720 00		
	Two laborers, at $660 each					1,320 00		
	NOTE.—One is to replace a laborer now employed and paid $600 from "contingent expenses War Department building."							
	Twelve charwomen, at $180 each					2,160 00		
							14,620 00	13,662 00
	NOTE.—The amount paid the force now employed is from appropriations as follows:							
	Salaries, superintendent, &c., War Department building ..... $10,250 00 From Army appropriations ..... 1,192 00 Contingent expenses War Department building 2,220 00 13,662 00							
Salaries, office of Adjutant-General (old Navy Department building).	Four watchmen, at $720 each		R. S.	27	167	2,880 00		
		Mar. 3, 1881	21	404	1			
	Two firemen, at $720 each	Same acts				1,440 00		
	One laborer	do				660 00		
							4,980 00	4,980 00
Salary of superintendent building corner of Fifteenth street and Pennsylvania avenue.	Superintendent of building occupied as the Quartermaster-General's office.		R. S.	35	215			
		June 20, 1874	18	101	1		250 00	250 00
		Mar. 3, 1881	21	404	1			
Salaries, superintendent, &c., building No. 1214 F street.	Superintendent of building occupied by the Paymaster-General		R. S.	35	215			
		June 20, 1874	18	102	1	250 00		
		Mar. 3, 1881	21	404	1			
	Five watchmen, at $720 each		R. S.	27	167			
			18	102	1	3,600 00		
			21	404	1			
	Two laborers, at $660 each	Same acts				1,320 00		
							5,170 00	5,170 00

Estimates of appropriations required for the service of the fiscal year ending June 30, 1883, *&c.*—Continued.

WAR DEPARTMENT BUILDING—Continued.

General object. (Title of appropriation.)	Detailed objects of expenditure, and explanations.	Date of acts, resolutions, or treaties, authorizing or providing for the expenditures.	References to Statutes at Large or to Revised Statutes. Vol. or R. S.	Page.	Sec.	Estimated amount which will be required for each detailed object of expenditure.	Total amount to be appropriated under each head of appropriation.	Amount appropriated for the current fiscal year ending June 30, 1882.
Salaries, superintendent, &c., building corner Seventeenth and F streets.	Superintendent	..... June 20, 1874 Mar. 3, 1881	R. S. 18 21	35 101 404	215 1 1	$250 00		
	Four watchmen, at $720 each	.....	R. S. 18 21	27 101 404	167 1 1	2,880 00		
	Two laborers, at $660 each	Same acts	.....	.....	.....	1,320 00		
	Conductor for elevator (estimate for elevator submitted under the title "Public Buildings and Grounds in and around Washington," on page 151 of House Ex. Doc. No. 5, present Congress).	Submitted	.....	.....	.....	720 00	$5,170 00	$4,450 00
Salary of superintendent, building on Tenth street.	Superintendent of building on Tenth street, occupied by Surgeon-General's office and Army Medical Museum.	June 20, 1874 Mar. 3, 1881	18 21	101 104	1 1	.....	250 00	250 00
Salary of superintendent, building on Madison Place.	Superintendent of building occupied as office of the Commissary General of Subsistence.	Mar. 3, 1875 Mar. 3, 1881	18 21	416 404	1 1	.....	250 00	250 00
	Total salaries War Department and bureaus	.....	.....	.....	.....	.....	1,511,610 00	1,428,036 26

Respectfully submitted.

WAR DEPARTMENT,
April 17, 1882.

ROBERT T. LINCOLN,
Secretary of War.

WAR DEPARTMENT,
Washington City, April 21, 1882.

SIR: In accordance with what I understand to be your desire, I now forward a statement showing the number of employés in this department and bureaus paid from appropriations other than those specifically provided for in the legislative, &c., appropriation act, and to be appropriated for.

Also similar statement of employés paid from appropriations for the Army.

Very respectfully, your obedient servant,

ROBERT T. LINCOLN,
Secretary of War.

Hon. J. G. CANNON,
of Committee on Appropriations, House of Representatives.

Statement of employés in the War Department and bureaus paid from appropriations for the Army.

OFFICE OF THE SECRETARY.

No. now employed.	Class.	Amount.	Appropriations from which paid.	To be appropriated for. No.	Class.	Amount.
13	General service clerks, at an average of $1.104.13.	$14,353 72	Army appropriations.	7	Clerks, of class one	$8,400 00
				6	Clerks, at $1,000	6,000 00
13		14,353 72		13		14,400 00

OFFICE OF THE ADJUTANT-GENERAL.

No. now employed.	Class.	Amount.	Appropriations from which paid.	To be appropriated for. No.	Class.	Amount.
138	General service clerks, messengers, assistant messengers, and watchmen, at an average of $1,053.56.	$145,391 24	Army appropriations.	10	Clerks of class three	$16,000 00
				20	Clerks of class two	28,000 00
				48	Clerks of class one	57,600 00
				5	Messengers, at $840	4,200 00
				35	Assistant messengers, at $720	25,200 00
				20	Watchmen, at $720	14,400 00
138		145,391 24		138		145,400 00

SIGNAL OFFICE.

No. now employed.	Class.	Amount.	Appropriations from which paid.	To be appropriated for. No.	Class.	Amount.
4	General service clerks and watchman, at an average of $1,055.60 each.	$4,222 41	Army appropriations.	2	Clerks of class one	$2,400 00
				1	Clerk	1,000 00
1	Messenger, at $40 per month	480 00	Signal Service.	1	Messenger	840 00
1	Laborer, at $35 per month	420 00		1	Messenger, at $40 per month	480 00
				1	Laborer, at $35 per month	420 00
6		5,122 41		6		5,140 00

OFFICE OF INSPECTOR-GENERAL.

No. now employed.	Class.	Amount.	Appropriations from which paid.	To be appropriated for. No.	Class.	Amount.
1	General service clerk	$1,105 42	Army appropriations.	1	Clerk of class one	$1,200 00
1		1,105 42		1		1,200 00

BUREAU OF MILITARY JUSTICE.

1	Clerk to Judge-Advocate, at $125 per month	$1,500 00	Incidental expenses, Quartermaster's Department.	1	Clerk of class three	$1,600 00
3	General service clerks, at an average of $1,071.76.	3,215 27	Army appropriations.	2	Clerks of class one	2,400 00
				1	Clerk, at $1,000	1,000 00
1	General service messenger	955 66		1	Messenger, at $840	840 00
5		5,670 93		5		5,840 00

OFFICE OF QUARTERMASTER-GENERAL.

1	Mechanical engineer	$1,800 00	Incidental expenses, Quartermaster's Department.	1	Mechanical engineer	$1,800 00
				3	Clerks of class one	3,600 00
11	General service clerks, at an average of $1,045.42.	11,499 62	Army appropriations.	8	Clerks, at $1,000	8,000 00
1	General service messenger	930 67		1	Messenger, at $840	840 00
13		14,230 29		13		14,240 00

OFFICE OF COMMISSARY-GENERAL.

11	General service clerks, at an average of $1,077.27.	$11,849 97	Army appropriations.	4	Clerks of class one	$4,800 00
				7	Clerks, at $1,000	7,000 00
11		11,849 97		11		11,800 00

OFFICE OF SURGEON-GENERAL.

1	Clerk of class four	$1,800 00	Medical and hospital department.	1	Clerk of class four	$1,800 00
1	Messenger, at $30 per month	360 00		1	Messenger boy, at $30 per month	360 00
22	General service clerks, at an average of $1,063.53.	23,397 67	Army appropriations.	7	Clerks of class one	8,400 00
				15	Clerks, at $1,000	15,000 00
24		25,557 67		24		25,560 00

OFFICE OF CHIEF OF ORDNANCE.

20	General service clerks and messengers, at an average of $1,113.60.	$22,272 00	Army appropriations.	13	Clerks of class one	$15,600 00
				5	Clerks, at $1,000	5,000 00
				2	Messengers, at $840	1,680 00
20		22,272 00		20		22,280 00

Estimates of appropriations required for the service of the fiscal year ending June 30, 1883, *&c.*—Continued.

OFFICE OF SURGEON-GENERAL—Continued.

General object. (Title of appropriation.)	Detailed objects of expenditure, and explanations.		Date of acts, resolutions, or treaties, authorizing or providing for the expenditures.	References to Statutes at Large or to Revised Statutes. Vol. or R. S.	Page.	Sec.	Estimated amount which will be required for each detailed object of expenditure.	Total amount to be appropriated under each head of appropriation.	Amount appropriated for the current fiscal year ending June 30, 1882.
Salaries, office of Surgeon-General—Cont'd.	Four messengers, at $840 each		Mar. 3, 1881	21	403	1	$3,360 00		
	Eight assistant messengers, at $720 each		do				5,760 00		
	Six watchmen, at $720 each		do				4,320 00		
	Eight laborers, at $720 each		do				5,760 00	$336,800 00	$308,937 67
	NOTE.—By the promotion to the higher grades, vacancies are caused in class one, which provide for replacing 22 general service clerks—two of whom belong to the War Department detachment of thirty; one clerk paid from appropriation for furnishing trusses, and one clerk of class one detailed from the Quartermaster-General's Office, under section 166 of the Revised Statutes, and for 34 clerks from the grade at $1,000 per annum, whose efficiency and faithful service in their special work entitle them to promotion.								
	The salary of the anatomist should be $1,800; it is now $1,600.								
	This organization *does not* include the increase of force asked for in letter of March 16, 1882, to facilitate the settlement of pension claims, and in which the reasons for an increased number of clerks of the higher grades is fully set forth, which letter was transmitted by the Secretary of War to the President, and by the President to Congress in his message of March 23, 1882, and is embodied in Executive Document No. 134, House of Representatives, present Congress.								
	The civilian clerks authorized by the legislative, etc., appropriation act of March 3, 1881, are paid therefrom	$280,980 00							
	The enlisted men authorized by same act, employed as clerks, are paid from appropriations for the Army	28,397 67							
	One clerk and one messenger authorized by par. 1414, A. R. 1881, and order of Secretary of War May 26, 1877, are paid from appropriation for medical and hospital department	2,160 00							
	And one clerk authorized by sections 1176, 1177, and 1178, R. S., is paid from appropriation for furnishing trusses	1,200 00							
	Total	308,937 67							

Statement of employés paid from appropriations other than those specifically provided for in the legislative, &c., appropriation act, and to be appropriated for, exclusive of the force paid from appropriations in the Army bill.

OFFICE OF THE SECRETARY.

No. now employed.	Class.	Amount.	Appropriations from which paid.	To be appropriated for. No.	Class.	Amount.
1	Clerk of class three	$1,600 00	Salaries and contingent expenses, Office of Secretary of War; Rebel Archives Branch.	1	Clerk of class three	$1,600 00
1	Clerk of class two	1,400 00		1	Clerk of class two	1,400 00
3	Clerks of class one	3,600 00		3	Clerks of class one	3,600 00
5		6,600 00		5		6,600 00

OFFICE OF SURGEON-GENERAL.

1	Clerk of class one	$1,200 00	Trusses for disabled soldiers.	1	Clerk of class one	$1,200 00

OFFICE OF PAYMASTER-GENERAL.

1	Clerk of class three	$1,600 00	Collection and payment of bounties, &c., to colored soldiers, &c.	1	Clerk of class three	$1,600 00

SIGNAL OFFICE.

1	Civilian assistant, at $375 per month	$4,500 00	Observation and report of storms.	1	Civilian assistant, at $375 per month	$4,500 00
3	Computers, at $125 per month	4,500 00		3	Computers, at $125 per month	4,500 00
1	Mail clerk, at $85 per month	1,020 00		1	Mail clerk, at $85 per month	1,020 00
3	Clerks, at $75 per month	2,700 00		3	Clerks, at $75 per month	2,700 00
2	Clerks, at $70 per month	1,680 00		2	Clerks, at $70 per month	1,680 00
6	Clerks, at $60 per month	4,320 00		6	Clerks, at $60 per month	4,320 00
5	Clerks, at $50 per month	3,000 00		5	Clerks, at $50 per month	3,000 00
1	Clerk, at $45 per month	540 00		1	Clerk, at $45 per month	540 00
1	Clerk, at $40 per month	480 00		1	Clerk, at $40 per month	480 00
2	Copyists, at $75 per month	1,800 00		2	Copyists, at $75 per month	1,800 00
2	Copyists, at $60 per month	1,440 00		2	Copyists, at $60 per month	1,440 00
1	Printer, at $75 per month	900 00		1	Printer, at $75 per month	900 00
1	Printer, at $50 per month	600 00		1	Printer, at $50 per month	600 00

Statement of employés paid from appropriations other than those specifically provided for in the legislative &c., appropriation act, &c.—Continued.

SIGNAL SERVICE—Continued.

No. now employed.	Class.	Amount.	Appropriations from which paid.	To be appropriated for. No.	Class.	Amount.
3	Carpenters, at $50 per month	$1,800 00	Observation and report of storms.	3	Carpenters, at $50 per month	$1,800 00
2	Messengers, at $50 per month	1,200 00		2	Messengers, at $50 per month	1,200 00
1	Messenger, at $45 per month	540 00		1	Messenger, at $45 per month	540 00
4	Messengers, at $40 per month	1,920 00		4	Messengers, at $40 per month	1,920 00
2	Messengers, at $35 per month	840 00		2	Messengers, at $35 per month	840 00
6	Messengers, at $30 per month	2,160 00		6	Messengers, at $30 per month	2,160 00
3	Messengers and press boys, at $25 per month	900 00		3	Messengers and press boys, at $25 per month	900 00
2	Messengers, at $20 per month	480 00		2	Messengers at $20 per month	480 00
2	Messengers, at $15 per month	360 00		2	Messengers, at $15 per month	360 00
1	Laborer, at $40 per month	480 00		1	Laborer, at $40 per month	480 00
2	Laborers, at $35 per month	840 00		2	Laborers, at $35 per month	840 00
2	Press boys, at $30 per month	720 00		2	Press boys, at $30 per month	720 00
1	Press boy, at $20 per month	240 00		1	Press boy, at $20 per month	240 00
1	Driver, at $30 per month	360 00		1	Driver, at $30 per month	360 00
1	Folder and stitcher, at $25 per month	300 00		1	Folder and stitcher, at $25 per month	300 00
62		40,620 00		62		40,620 00

OFFICE OF PUBLICATION OF RECORDS OF THE REBELLION.

1	Agent	$2,400 00	Publication of the Official Records of the War of the Rebellion.	1	Agent	$2,400 00
2	Clerks of class four	3,600 00		2	Clerks of class four	3,600 00
1	Clerk of class three	1,600 00		1	Clerk of class three	1,600 00
1	Clerk of class two	1,400 00		1	Clerk of class two	1,400 00
2	Clerks, at $1,000	2,000 00		2	Clerks, at $1,000	2,000 00
2	Copyists, at $900	1,800 00		2	Copyists, at $900	1,800 00
18	Copyists, at $840	15,120 00		18	Copyists, at $840	15,120 00
1	Foreman	1,600 00		1	Foreman	1,600 00
1	Pressman	1,200 00		1	Pressman	1,200 00
5	Compositors, at $1,000	5,000 00		5	Compositors, at $1,000	5,000 00
2	Copy-holders, at $900	1,800 00		2	Copy-holders, at $900	1,800 00
3	Assistant messengers, at $720	2,160 00		3	Assistant messengers, at $720	2,160 00
2	Watchmen, at $720	1,440 00		2	Watchmen, at $720	1,440 00
1	Additional laborer	600 00		1	Additional laborer	600 00
42		41,720 00		42		41,720 00

OFFICE OF QUARTERMASTER-GENERAL.

1	Washerwoman, at $20 per month	$240 00	Contingent expenses, office of Quartermaster-General.	1	Washerwoman	$240 00
1	Laborer, at $1.50 per day, employed at intervals.	225 00		1	Laborer	225 00
1	Charwoman, at $1.50 per day, employed at intervals.	100 00		1	Charwoman	100 00
3		565 00		3		565 00

WAR DEPARTMENT BUILDING.

1	Machinist, at $75 per month	$900 00	Contingent expenses, War Department Building.	1	Machinist, at $75 per month	$900 00
1	Skilled laborer, at $60 per month	720 00		1	Skilled laborer, at $60 per month	720 00
1	Laborer, at $50 per month	600 00		1	Laborer, at $50 per month	600 00
3		2,220 00		3		2,220 00

RECAPITULATION.

No. now employed.	Office.	Amount.	No. required.	Title of appropriation.	Amount.
5	Secretary's Office	$6,600 00	5	Salaries office Secretary of War	$6,600 00
1	Surgeon-General	1,200 00	1	Salaries office Surgeon-General	1,200 00
1	Paymaster-General	1,600 00	1	Salaries office Paymaster-General	1,600 00
62	Signal Office	40,620 00	62	Salaries Signal Office	40,620 00
42	Rebellion Records Office	41,720 00	42	Salaries office Rebellion Records	41,720 00
3	Quartermaster-General	565 00	3	Salaries office Quartermaster-General	565 00
3	War Department Building	2,220 00	3	Salaries Superintendent, &c., War Department Building	2,220 00
117		94,525 00	117		94,525 00

WAR DEPARTMENT,
Washington City, April 26, 1882.

SIR: In answer to a communication of the 25th instant, from J. C. Courts, assistant clerk of the committee, requesting statement of buildings in this city rented by the War Department; also, list of clerks employed in the claims branch of the Quartermaster-General's office, I have the honor to forward herewith a statement of all buildings in this city rented by this department, the purpose for which used, and amount and appropriations from which paid. The statement is exclusive of the amounts paid from appropriations in the legislative, &c., appropriation bill of March 3, 1881, as follows:

Office.	Location.	Appropriation.	Amount.
Quartermaster-General's Office	Fifteenth and Pennsylvania avenue.	Rent of building Fifteenth and Pennsylvania avenue.	$10,000
Surgeon-General's Office	do	Contingent expenses (rent) Office of Surgeon-General.	3,200
Do	Tenth and F streets, N. W.	do	1,500
Paymaster-General's Office	1412 F street, N. W.	Rent of building on F street, N. W.	4,500
Commissary-General's Office	Madison Place	Contingent expenses (rent) Office of Commissary-General.	2,500
Adjutant-General's Office	610 Seventeenth st., N. W.	Rent of building, Office of Adjutant-General.	1,200
Total			22,900

I am advised that all the buildings now occupied are and will be required during the fiscal year 1883.

I also forward a statement of all persons employed by the depot quartermaster in this city (not "claims branch or division in the Quartermaster-General's office," as stated in Mr. Courts's letter). These persons are employed *in* the depot quartermaster's office, and paid from appropriations for the Army, the same as all other employés in the Quartermaster's Department outside of Washington; and I perceive no reason why the employés of this particular depot should be included in the legislative, &c., appropriation bill, rather than the employés of other depots. The Washington depot is not more closely connected with the department than other depots.

Very respectfully, your obedient servant,

ROBERT T. LINCOLN,
Secretary of War.

Hon. J. G. CANNON,
Of Committee on Appropriations, House of Representatives.

DEPOT QUARTERMASTER'S OFFICE,
Washington, D. C., April 28, 1882.

To the QUARTERMASTER-GENERAL OF THE ARMY:

GENERAL: Referring to your communication of the 26th instant, calling for reports of the number of buildings rented by the government in this city, the number of clerks and other persons employed in the Quartermaster's Department in Washington during the present fiscal year, &c., I have the honor to submit the following reports, containing the information called for, so far as this office is concerned:

I.

1. Report of buildings rented by the United States in Washington, D. C., and used by the bureaus of the War Department, the rental of which is paid by the depot quartermaster in this city, for that portion of the present fiscal year commencing July 1, 1881, and ending March 31, 1882, showing for what purposes said buildings are used, the annual rental paid in each case, the cost to the United States of lighting, heating, and of repairs made upon the same, and the appropriations from which the payments are made.

2. Report of expenses paid by the depot quartermaster at Washington, D. C., for lighting, heating, and for repairs of certain buildings occupied by the War Department and bureaus thereof (said buildings either being owned by the government or the rental thereof *not* paid by the depot quartermaster) during that portion of the fiscal year commencing July 1, 1881, and ending March 31, 1882, and showing from what appropriations said expenses are paid.

3. Report of clerks and other persons now employed in the *Claims* branch or division by the depot quartermaster at Washington, D. C., showing how said persons are employed, their rate of pay and compensation, and from what appropriations they are paid.

4. Report of persons now employed in connection with national cemeteries under the direction of Maj. B. C. Card, quartermaster in charge of office of national cemeteries, showing how said persons are employed, their rate of pay and compensation, and from what appropriations they are paid.

5. Report of persons now employed under the direction of the depot quartermaster at Washington, D. C., including such as are employed otherwise in the public service, but who are reported and paid by said depot quartermaster (excluding those on Reports 3 and 4), showing the nature of their employment, their rate of pay or compensation, and from what appropriations they are paid.

II.

The report herewith (1) sets forth in detail the buildings now rented and paid by the depot quartermaster. It is believed that the hire of said buildings will be necessary during the next fiscal year, and it is estimated that the amount therein stated will be required in the payment, with a possible increase in the case of the last item, as the owners thereof have intimated that such an increase will be demanded. The rate now paid ($160.92) is low, and the buildings are public.

In the matter of an estimate of the number of clerks, &c., required in the "Claims" branch, or division, for the next fiscal year, the following is submitted: The number and classes now employed are, as shown by Report 3, herewith, to be as follows: Nine agents, 20 clerks, 11 copyists, 2 messengers, and 1 watchman. At this date there are on hand in this office 715 claims for investigation and report by agents, 1,400 for complete brief, 637 for card brief, and 107 for additional briefing. It is believed that the number of persons now employed can complete the work by the close of the next fiscal year. Therefore I consider it better to keep up that force and close up the work within that year, rather than to reduce the force and continue the work for a subsequent year.

Very respectfully, your obedient servant,

BENJ. C. CARD,
Quartermaster, U. S. Army.

Five inclosures; 1710 of 1882.

Report of buildings rented by the United States in Washington, D. C., and used by the Bureaus of the War Department during a portion of the present fiscal year, commencing July 1, 1881, and ending March 31, 1882, the rental of which is paid by the depot quartermaster at Washington, showing for what purposes said buildings are used, the annual rent in each case, and the cost of lighting, heating, and of repairs made upon the same, and the appropriation from which the payments are made.

No.	Buildings.	Occupied as—	Occupied by—	Annual rent.	Cost of lighting (9 months).	Cost of heating (9 months).	Other expenses for 9 months.
1	1703 New York avenue	Office	Adjutant-General	$1,200 00		$243 60	$62 23
2	616 Seventeenth street	do	do	1,000 00			161 35
3	618 Seventeenth street	do	do	1,000 00		103 23	161 35
4	620 Seventeenth street	do	do	2,100 00		a544 00	
5	1704 G street	do	do	2,599 96		b186 00	128 77
6	720 Seventeenth street	do	do	2,700 00		109 20	
7	1707 and 1709 New York avenue	do	do	3,000 00		277 65	
8	Second and third stories, Seventeenth street and Pennsylvania avenue	do	Branch War Department	1,080 00	$7 40		
9	1719 and 1721 G street	do	Chief Signal Officer	1,899 96	398 22	c1,451 09	65 00
10	Second floor 1719 and 1721 Pennsylvania avenue	do	do	480 00	133 66		118 25
11	1813 F street	do	Engineer Department	1,599 96	11 38	d168 93	
12	616 Eighteenth street	do	do	960 00	12 43		
13	1733 G street	do	Medical Department	999 96	32 00	326 33	3 10
14	Square number 232	Stables	Quartermaster Department	1,500 00	112 03	e202 92	
15	Lots 9 and 10, square number 231	Commissary	Subsistence Department	160 92		f143 24	
	Total			22,280 76	707 12	3,756 19	700 05

a Cost of heating includes 616 and 618 Seventeenth street and 1704 G street.
b Cost of repairs to heating apparatus.
c Cost of heating includes all Signal Offices, rented and not rented.
d Heating includes 616 Eighteenth street.
e Heating public buildings on this square.
f Heating public buildings on these lots.

"Rent" paid from appropriation for "Barracks and Quarters."
"Lighting and Heating" paid from appropriation for "Regular Supplies."
"Other Expenses" being repairs paid from appropriation for "Barracks and Quarters."

B. C. CARD,
Brevet Brigadier-General and Depot Quartermaster.

OFFICE OF THE DEPOT QUARTERMASTER,
Washington, D. C., April 27, 1882.

Report of expenses paid by the Depot Quartermaster at Washington, D. C., for lighting and heating and for repairs of certain buildings occupied by the War Department and bureaus thereof (the rental of which is not paid by the Quartermaster's Department), during a portion of the present fiscal year, viz, from July 1, 1881, to March 31, 1882, showing for what purposes said buildings are used, and from what appropriation the expenses are paid.

No.	Buildings.	Occupied as—	Occupied by—	Cost of lighting, 9 months.	Cost of heating, 9 months.	Other expenses for 9 months.
1	1725 G street	Office	Chief Signal Officer	$24 08		
2	1731 Pennsylvania avenue	do	do	5 00		
3	1720 Pennsylvania avenue	do	do	20		
4	610 Seventeenth street	do	Adjutant-General's Office		$541 00	$2,014 25
5	Quartermaster-General's Office	do	Quartermaster-General and Depot Quartermaster	502 83	1,132 25	468 90
6	1725 F street	do	Adjutant-General's Office		150 00	
7	War Department stables	Stable	War Department			248 90
	Total			532 11	1,823 25	2,732 05

"Lighting" and "Heating" paid from appropriation for "Regular supplies." "Other expenses," being repairs, from appropriation for "Barracks and quarters."

B. C. CARD
Brevet Brigadier-General and Depot Quartermaster.

OFFICE OF THE DEPOT QUARTERMASTER,
Washington, D. C., April 27, 1882.

Report of clerks and other employés now employed in the claims branch or division by the depot quartermaster at Washington, D. C., showing how said persons are employed, the rate of pay or compensation, and from what appropriation they are paid.

Name.	Occupation.	Annual rate of pay.	Appropriation.	Remarks.
John H. Hood	Clerk	$1,800 00	Incidental expenses.	Employed briefing claims.
F. M. Schreiner	do	1,600 00	do	
O. B. Brown	do	1,600 00	do	
William E. Blackford	do	1,400 00	do	
F. S. Altemus	do	1,400 00	do	
W. H. Fuller	do	1,400 00	do	
E. P. Cowaizier	do	1,400 00	do	
J. A. Miller	do	1,200 00	do	
F. W. Fisher	do	1,200 00	do	
J. M. Chadwick	do	1,200 00	do	
H. H. Martin	do	1,200 00	do	
W. T. Pierson	do	1,200 00	do	
Samuel W. Tucker	do	1,200 00	do	
J. M. McFarland	do	1,200 00	do	
William J. Hassall	do	1,200 00	do	
J. E. White	do	1,200 00	do	
Isaac Strohm	do	1,200 00	do	
J. M. Pipes	do	1,200 00	do	
F. W. Matteson	do	1,000 00	do	
Charles W. Jones	do	1,000 00	do	
Dennis Reilly	Messenger	720 00	do	
Thomas H. Cross	do	720 00	do	
Christopher Shaw	do	720 00	do	
Robert E. Fugitt	Watchman	720 90	do	
M. S. Davis	Copyist	900 00	do	
M. E. Pelouze	do	900 00	do	
A. E. Loomis	do	900 00	do	
M. L. Manger	do	900 00	do	
E. F. Long	do	900 00	do	
E. C. Lancaster	do	900 00	do	
A. C. Wyeth	do	900 00	do	
M. A. Rousseau	do	900 00	do	
E. M. Hooe	do	900 00	do	
A. Thompson	do	900 00	do	
C. S. Gillem	do	900 00	do	
Madison Salladé	Agent	1,500 00	Army transportation.	$3.25 per day while absent from station on duty traveling. Employed in investigating claims.
Z. Frank Nye	do	1,500 00	do	
E. S. Miller	do	1,500 00	do	
J. F. Dobbyn	do	1,400 00	do	
C. P. Rogers	do	1,400 00	do	
J. W. Nightingale	do	1,400 00	do	
Alex. R. Speel	do	1,400 00	do	
W. G. Rankin	do	1,400 00	do	
H. B. Quinby	do	1,400 00	do	

B. C. CARD,
Brevet Brigadier-General and Depot Quartermaster.

OFFICE OF THE DEPOT QUARTERMASTER,
Washington, D. C., April 27, 1882.

List of employés of Quartermaster's Department, serving under direction of Maj. Benjamin C. Card, quartermaster, U. S. Army, in charge of office of national cemeteries, Washington, D. C., July 1, 1881, to date.

Name.	Occupation.	Annual rate of pay.	Remarks.	
Walter Woollcott	Clerk	$2,000 00	In office of national cemeteries	Paid from appropriations for national cemeteries, and for headstones over graves of soldiers.
John J. Washburn	do	1,800 00	do	
Charles E. Miller	do	1,600 00	do	
Charles Hellyer	do	1,400 00	do	
J. C. Devantier	do	1,200 00	do	
James Gall, jr	Civil engineer.	*3,600 00	Supervising constructions and improvements at national cemeteries.	
George T. Castle	do	*1,800 00	do	
Michael Kelly	Laborer	720 00	In office of national cemeteries	
Samuel Goodman	Watchman	720 00	do	
Dennis Johnston	do	720 00	do	
George M. Hunter	Agent	*1,200 00	Preparation of lists and inspection of headstone work.	

* And traveling expenses; $3.25 per day, when absent from station on public duty.

B. C. CARD,
Brev. Brig. Gen., and Depot Quartermaster.

WASHINGTON, D. C., *April* 27, 1882.

List of persons employed under the direction of the depot quartermaster, at Washington, D. C., including such as are employed otherwise in the public service, and reported and paid by said depot quartermaster; showing the nature of their employment, their rate of pay or compensation, and from what appropriation they are paid.

Name.	Occupation.	Annual rate of pay.	Appropriation.	Remarks.
C. E. Fisher	Superint'd't.	$2,000 00	Incidental expenses.	Employed in depot quartermaster's office.
William S. Yeatman	Clerk	2,000 00	do	
Wm. H. Frendenthal	do	1,800 00	do	
William Hart	do	1,800 00	do	
J. B. Loyd	do	1,800 00	do	
William E. Prescott	Shipping cl'k	1,600 00	do	
J. C. Hardie	Clerk	1,400 00	do	
J. L. Hawkins	do	1,400 00	do	
J. P. Montgomery	do	1,200 00	do	
E. P. Miller	do	1,200 00	do	
M. G. Meade	do	900 00	do	
Thomas McCabe	Messenger	720 00	do	
Michael Barry	do	720 00	do	
Jabez Jay	Watchman	720 00	do	
Thomas C. Trumbull	Superint'd't.	1,600 00	do	Receiving and issuing quartermaster's blanks.
Joseph Bushman	Vet. surgeon	1,200 00	do	Doctoring public animals.
Frank Lochbochler	Packer	840 00	Army transportation.	Employed in blank room.
John Wasson	Packer and driver.	720 00	do	Packing and moving public property.
Thomas B. Miller	Packer	720 00	do	Employed in blank room.
Philip Baker	Stencil pressman.	720 00	Incidental expenses.	Making stencil prints in Quartermaster-General's Office.
Lewis M. Zuncker	Mechanical engineer.	*5 00	Regular supplies.	Determining the just equivalent of fuel used by the Army.
A. Gruber	Watchman	720 00	Incidental expenses.	Employed in building corner Fifteenth street and Pennsylvania avenue.
William Quinn	do	720 00	do	
Joseph McDonald	Clerk	1,500 00	do	Employed under the direction of the Secretary of War in Judge-Advocate-General's Office.
James Cooney	Wagon-master.	1,000 00	Army transportation.	In charge of quartermaster corral.
Thomas M. Blakey	Forage inspector.	1,000 00	Regular supplies.	Forage inspector at depot.
John McCauley	Forage agt.	900 00	do	Forage agent at depot.
Jacob Coddington	Carpenter	840 00	Barracks and quarters.	Doing repairs at depot, fabricating, packing boxes, &c.
Thomas C. Mockabee	do	840 00	do	

* Per diem.

List of persons employed under the direction of the depot quartermaster, &c.—Continued.

Name.	Occupation.	Annual rate of pay.	Appropriation.	Remarks.
Thomas E. Clark	Blacksmith	$840 00	Army transportation.	Shoeing draught animals.
Charles H. Hays	do	840 00	do	
John Ogden	do	840 00	do	
Dennis Harrigan	Teamster	480 00	do	Driving public teams.
Gates Dixon	do	420 00	do	
John Whelan	do	420 00	do	
Robert Granger	do	420 00	do	
Jacob Harris	do	420 00	do	
Isaac Young	do	420 00	do	
John Rider	do	420 00	do	
Michael McCormick	do	420 00	do	
William D. Buckley	do	480 00	do	Employed at War Dept. stables.
Joseph Scott	Hostler	720 00	do	Employed at quartermaster's stables.
James Buckley	do	420 00	do	
Thomas Burke	do	420 00	do	
Michael Hagan	do	420 00	do	
Peter Boyle	do	420 00	do	
Frederick Stepf	do	420 00	do	
James Norman	do	420 00	do	
Alex. Anderson	do	420 00	do	
Albert Lee	do	420 00	do	
James Simms	do	420 00	do	
John Connell	do	420 00	do	
Henry McPherson	do	420 00	do	
John Wilson	do	420 00	do	
William Willis	do	420 00	do	Employed at War Department stables.
J. W. Thompson	do	420 00	do	
Thornton Catlett	do	360 00	do	Employed at quartermaster's stables.
John Offord	Laborer	420 00	Incidental expenses.	
John P. Brannan	do	420 00	do	
Thomas Stevenson	do	420 00	do	
L. Hawkins	do	300 00	do	
Jos. McHenry	Watchman	420 00	do	
Edwin Stewart	do	420 00	do	
Gerald McCormick	do	420 00	do	
M. J. McCormick	do	420 00	do	
John Riley	do	420 00	do	
William Compton	do	420 00	do	War Department stables.

NOTE.—This report does not include the persons employed in the "Claims Branch," nor those in connection with national cemeteries. Separate reports are made covering those two classes.

B. C. CARD,
Brev. Brig. Gen., and Depot Quartermaster.

OFFICE OF THE DEPOT QUARTERMASTER,
Washington, D. C., April 27, 1882.

Statement of buildings occupied by War Department and its bureaus in Washington, D. C., exclusive of those specifically appropriated for in the legislative, &c., appropriation act of March 3, 1881.

Office.	Location of building.	For what purpose used.	From what appropriation paid.	Amount.	Total of each office.
Secretary of War	2005 G street, NW	Rebellion Record office	Publication of official records War of the Rebellion.	$1,200 00	$1,200 00
Signal Office	1725 G street, NW	Property division	Observation and report of storms	1,200 00	
Do	1732 G street, NW	Fact and international bulletin offices	do	480 00	
Do	do	Machine shop	do	120 00	
Do	1720 G street, NW	Marine division offices	do	180 00	
Do	1741 G street, NW	Examining officers' rooms	do	360 00	
Do	do	Meteorological division of stations offices	do	360 00	
Do	1731 Pennsylvania ave., NW	Officer in charge printing division, &c	do	420 00	
Do	1718 Pennsylvania ave., NW	Packing, distribution, and mailing office, publications, &c.	do	636 00	
Do	2021 H street, NW	Stables	do	600 00	
Do	1719 Pennsylvania ave., NW	Engine room in rear of printing office	do	25 00	
					4,381 00
Engineer Department	1907 Pennsylvania ave., NW	Engineer in charge of Potomac and other river improvements.	Improving Potomac River, &c	480 00	480 00

WAR DEPARTMENT, *April* 26, 1882.

LETTER OF THE SECRETARY OF THE TREASURY SUBMITTING REVISED ESTIMATES FOR 1883.

TREASURY DEPARTMENT,
Washington, April 13, 1882.

SIR: Referring to the letter of your committee of March 15, 1882, requesting me to submit estimates for whatever portion of the force now in service in this department not specifically appropriated for, but paid from miscellaneous appropriations, is deemed absolutely necessary, I have the honor to append hereto what have been submitted to me by the heads of bureaus and chiefs of divisions, as revised estimates of such offices as are affected thereby, classified to conform with the regular estimates for 1883, which include, first, the number and class of such employés paid from miscellaneous appropriations as can be specifically estimated for, together with the number and class of force detailed under the provisions of section 166 of the Revised Statutes; and, second, revised estimates, adjusted from the foregoing, of the number and class of employés which are said to be necessary to replace those now paid from the miscellaneous appropriations referred to. I also submit tables showing the offices and appropriations affected by this revision.

It will be seen that the estimate of the force required in the regular offices of the department to replace those now paid from miscellaneous appropriations is in the aggregate less by the sum of $4,468.25 than the amount now paid. But I am forced to say that I have a feeling that there is not a need of all the clerical force that is therein set forth. I have a feeling that in some branches of the department there is a need of an increase of force, while in others there is more now on the rolls than is required. It is not matter for surprise that the heads of bureaus and chiefs of divisions should magnify their offices, and should seek to keep up the relative importance and efficiency of that over which they respectively preside. Hence it is that few of them are inclined to suggest a decrease in the number of employés under them. At the same time, constantly occupied as I am, I have not the opportunity just now of discovering right where there should be a diminution of force, while I am apprised of where there is a need of increase by the representations to that effect of the chief or head who sees the work of his office falling in arrears. The best that I can do at present is to submit to your committee the data supplied to me; to suggest that it report such a bill as the experience and judgment of the committee dictate, and leave it to my further investigation and conclusions whether hereafter to fill or leave vacant any of the places provided for by appropriation, and from time to time to supply unprovided-for needs in any part of the department by detail from other parts in which there is not occupation for those assigned there. And I further suggest that if in any instance presented by the estimates herewith transmitted there appears an increase which does not meet the ready acquiescence of your committee, that the head of bureau or chief of division be called before it to give reasons for increase; or, that the item or items be especially referred to me to educe those reasons.

I have further to say that, in accord with what I understand is the desire of the committee, I have submitted a draft of a section of a law as to the customs service; but at the same time I must respectfully submit a doubt whether that service can be provided for in advance by detailed appropriations. It is a service spread over a great extent of coast and somewhat of inland country; the ports and places of entry and delivery are numerous; the officers are many, the character of the service is diversified, the unforseen exigencies are frequent. It is a difficult thing to provide in advance for the details of such a service.

Very respectfully,

CHARLES J. FOLGER,
Secretary.

Hon. FRANK HISCOCK,
Chairman Committee on Appropriations, House of Representatives.

Revised estimates for 1883.

OFFICE OF THE SECRETARY OF THE TREASURY.

Class.	Paid from miscellaneous appropriations.	Add for details from other offices.	Deduct for details to other offices.	Number estimated for for 1883.	To be appropriated for.	Amount.
Secretary, at $8,000				1	Secretary	$8,000 00
Assistant Secretary, at $4,500				2	Two Assistant Secretaries, at $4,500 each	9,000 00
Chief clerk, at $2,700				1	Chief clerk	2,700 00
Stenographer for the Secretary, at $2,000				1	Stenographer for the Secretary	2,000 00
Chief of Division of Warrants, Estimates, and Appropriations, at $2,750.				1	Chief of Division of Warrants, Estimates, and Appropriations.	2,750 00
Assistant chief of Division of Warrants, Estimates, and Appropriations, at $2,400.				1	Assistant chief of Division of Warrants, Estimates, and Appropriations.	2,400 00
					Estimate and digest clerk, in lieu of one clerk of class four, deducted.	2,000 00
Chief of Division of Customs, at $2,750				1	Chief of Division of Customs	2,750 00
Chief of Division of Captured and Abandoned Property, at $2,750.	1				Chief of Division of Captured and Abandoned Property	2,750 00
Chief of division, at $2,500				6	Six chiefs of divisions, at $2,500 each	15,000 00
Assistant chief of division, at $2,100				2	Two assistant chiefs of divisions, at $2,100 each	4,200 00
Assistant chief of division, at $2,000				6	Six assistant chiefs of divisions, at $2,000 each	12,000 00
Disbursing clerk, at $2,500				2	Two disbursing clerks, at $2,500 each	5,000 00
Superintendent of mails, at $2,500				1	Superintendent of mails	2,500 00
Government actuary, at $2,000				1	Government actuary, under control of the Treasury Department.	2,000 00
Clerk, class four, at $1,800	5		3	40	*Forty-four clerks of class four	79,200 00
Additional to three clerks of class four, each $100					Additional to three clerks of class four, at $100 each	300 00
Clerk, class three, at $1,600	3		1	25	Twenty-seven clerks of class three	43,200 00
Clerk, class two, at $1,400	5	1		21	Twenty-seven clerks of class two	37,800 00
Clerk, class one, at $1,200	6	1		21	Thirty clerks of class one	36,000 00
Clerk, $1,000 class	1	3		11	Fifteen clerks, at $1,000 each	15,000 00
Clerk, $900 class	4	1	3	50	Fifty-three clerks, at $900 each	47,700 00
Messenger, at $840	3			7	Ten messengers, at $840 each	8,400 00
Assistant messenger, at $720	3	1	1	7	Ten assistant messengers, at $720 each	7,200 00
Laborer (foreman), at $1,200	1				Foreman of laborers	1,000 00
Laborer (in charge of stable), at $840	1				One laborer	840 00
Laborer, at $660	5	1	2	42	Forty-six laborers, at $660 each	30,360 00
Laborer, at $600	8				Eleven laborers, at $500 each	5,500 00
Laborer, at $540	1					
Laborer, at $480	2					

Laborer, at $360	3				Three female laborers, at $360 each	1,080 00
Superintendent of Treasury building, at $300					Superintendent of Treasury building	300 00
Captain of the watch, at $1,400				1	Captain of the watch	1,400 00
Engineer, at $1,400				1	Engineer	1,400 00
Assistant engineer, at $1,000				1	Assistant engineer	1,000 00
Machinist and gas-fitter, at $1,200				1	Machinist and gas-fitter	1,200 00
Storekeeper, at $1,200				1	Storekeeper	1,200 00
Watchman, at $720				60	Sixty watchmen, at $720 each	43,200 00
Additional to two watchmen as lieutenants, each $180					Additional to two watchmen acting as lieutenants of watchmen, at $180 each.	360 00
Fireman, at $720	1			6	Seven firemen, at $720 each	5,040 00
Conductor at elevator, at $720				3	Three conductors at elevators, at $720 each	2,160 00
Telegraph operator, at $1,200				1	Telegraph operator	1,200 00
Charwoman, at $180				75	Seventy-five charwomen, at $180 each	13,500 00
Gardener, at $1,200	1				Gardener	840 00
Foreman of cabinet-shop, at $5 per diem	1				Foreman of cabinet-shop, at $5 per diem	1,565 00
Special furniture inspector, at $5 per diem	1				Omitted	
Draughtsman, at $4 per diem	1				One draughtsman, at $4 per diem	1,252 00
Cabinet-maker, at $3.50 per diem	1				One cabinet-maker, at $3.50 per diem	1,095 50
Cabinet-maker, at $3 per diem	12				Twelve cabinet-makers, at $3 per diem each	11,268 00
Cabinet-maker, $60 per month	1				One cabinet-maker	660 00
Foreman of bindery, at $1,565	1				Foreman of bindery, at $5 per diem	1,565 00
Binder, at $4 per diem	4				Four binders, at $4 per diem each	5,008 00
Sewer and folder, at $2.50 per diem	1				One sewer and folder, at $2.50 per diem	782 50
Clerk, at $8 per diem	1				Special agent in charge of Revision of Treasury Customs Regulations, at $8 per diem.	2,920 00
Clerk, at $6 per diem	1				*Added to class four	
Clerk, at $5 per diem	2				*Added to class four	
Clerk, at $4 per diem	2				†Added to class one	
Clerk, at $3 per diem	1				‡Added to $900 class	
Superintendent of paper-room, at $5 per diem	1				Superintendent of paper-room	1,800 00
Paper-cutter of paper-room, at $3 per diem	1				Two paper counters, at $900 each	1,800 00
Expert counter of paper-room, at $2.25 per diem	1					
Counter and laborer of paper-room, at $2 per diem	28				Twenty-eight paper counters and laborers, at $660 each	18,480 00
Total						509,626 00

OFFICE OF SUPERVISING ARCHITECT.

Supervising Architect, at $4,500				1	Supervising Architect	$4,500 00
Assistant and chief clerk, at $2,500				1	Assistant and chief clerk	2,500 00
Principal clerk, at $2,000				1	Principal clerk	2,000 00
Photographer, at $2,000				1	Photographer	2,000 00
Clerk, class three, at $1,600				2	Two clerks of class three	3,200 00
Clerk, class one, at $1,200				3	Three clerks of class one	3,600 00
Clerk, $900 class				1	One clerk	900 00
Assistant messenger, at $720				1	One assistant messenger	720 00
Total						19,420 00

Revised estimates for 1883—Continued.

OFFICE OF SUPERVISING ARCHITECT—Continued.

Class.	Paid from miscellaneous appropriations.	Add for details from other offices.	Deduct for details to other offices.	Number estimated for for 1883.	To be appropriated for.	Amount.
Chief computer and inspector of public buildings, at $10 per diem	1					
Inspector of accounts, at $10 per diem	1					
Civil engineer, at $9 60 per diem	1					
Principal draughtsman, at $8 per diem	1					
Draughtsman, at $6.50	2					
Draughtsman, at $6 per diem	5					
Draughtsman, at $5.50 per diem	2					
Draughtsman, at $5 per diem	5					
Draughtsman, at $4.50 per diem	5					
Draughtsman, at $4 per diem	4					
Draughtsman, at $3.50 per diem	2					
Draughtsman, at $3 per diem	6					
Draughtsman, at $900 per annum	1					
Computer, at $8 per diem	1					
Computer, at $6.50 per diem	1					
Computer, at $6 per diem	2				And the services of skilled draughtsman, civil engineers, computers, accountants, modellers, assistants to the photographer, copyists, and such other services as the Secretary of the Treasury may deem necessary, may be employed in the office of the Supervising Architect to carry into effect the various appropriations for public buildings, to be paid for from such appropriations: *Provided*, That the expenditures on this account, for the fiscal year ending June 30, 1883, shall not exceed one hundred and fifty thousand dollars.	
Computer, at $5.50 per diem	4					
Computer, at $5 per diem	3					
Computer, at $4.50 per diem	2					
Computer, at $4 per diem	3					
Accountant, at $6.50 per diem	1					
Photographer, at $5.50 per diem	2					
Assistant photographer, at $5 per diem	1					
Assistant photographer, at $4 per diem	1					
Assistant photographer, at $900 per annum	1					
Modeller, at $6 per diem	1					
Modeller, at $5.50 per diem	1					
Modeller, at $5 per diem	5					
Modeller, at $4 per diem	1					
Molder, at $3 per diem	1					
Locksmith, at $4 per diem	1					
Mailing and shipping clerk, at $4 per diem	1					

Assistant mailing clerk, at $3.75 per diem	1					
Clerk, at $1,200 per annum	1					
Clerk, at $1,000 per annum	1					
Clerk and copyist, at $900 per annum	10					
Messenger, at $840 per annum	1					
Laborer, at $420 per annum	1					

OFFICE OF THE FIRST COMPTROLLER.

Comptroller, at $5,000				1	First Comptroller	$5,000 00
Deputy Comptroller, at $2,700				1	Deputy Comptroller	2,700 00
Chief of division, at $2,100				4	Four chiefs of division, at $2,100 each	8,400 00
Clerk, class four, at $1,800				5	Five clerks of class four	9,000 00
Clerk, class three, at $1,600		1		10	Eleven clerks of class three	17,600 00
Clerk, class two, at $1,400				10	Ten clerks of class two	14,000 00
Clerk, class one, at $1,200		1		7	Eight clerks of class one	9,600 00
Clerk, $1,000 class				4	Four clerks, at $1,000 each	4,000 00
Clerk, $900 class		4		7	Eleven clerks, at $900 each	9,900 00
Assistant messenger, at $720				1	One assistant messenger	720 00
Laborer, at $660				3	Three laborers, at $650 each	1,980 00
Total						82,900 00

OFFICE OF COMMISSIONER OF CUSTOMS.

Commissioner, at $4,000				1	Commissioner of Customs	$4,000 00
Deputy Commissioner, at $2,250				1	Deputy Commissioner	2,250 00
Chief of division, at $2,100				2	Two chiefs of division, at $2,100 each	4,200 00
Clerk, class four, at $1,800				2	Two clerks of class four	3,600 00
Clerk, class three, at $1,600	1			4	Five clerks of class three	8,000 00
Clerk, class two, at $1,400	1			10	Eleven clerks of class two	15,400 00
Clerk, class one, at $1,200	1		1	9	Nine clerks of class one	10,800 00
Clerk, $1,000 class			1	3	Two clerks, at $1,000 each	2,000 00
Assistant messenger, at $720				1	One assistant messenger	720 00
Laborer, at $660				1	One laborer	660 00
Total						51,630 00

Revised estimates for 1883—Continued.

OFFICE OF THE FIRST AUDITOR.

Class.	Paid from miscellaneous appropriations.	Add for details from other offices.	Deduct for details to other offices.	Number estimated for for 1883.	To be appropriated for.	Amount.
Auditor, at $3,600				1	First Auditor	$3,600 00
Deputy Auditor, at $2,250				1	Deputy Auditor	2,250 00
Chief of division, at $2,000				4	Four chiefs of divisions, at $2,000 each	8,000 00
Clerk, class four, at $1,800				7	Seven clerks of class four	12,600 00
Clerk, class three, at $1,600				9	Nine clerks of class three	14,400 00
Clerk, class two, at $1,400				10	Ten clerks of class two	14,000 00
Clerk, class one, at $1,200				16	Sixteen clerks of class one	19,200 00
Clerk, $1,000 class				3	Three clerks, at $1,000 each	3,000 00
Clerk, $900 class		1	2	5	Four clerks, at $900 each	3,600 00
Assistant messenger, at $720			1	2	One assistant messenger	720 00
Laborer, at $660				2	Two laborers, at $660 each	1,320 00
Total						82,690 00

OFFICE OF THE SECOND AUDITOR.

Auditor, at $3,600				1	Second Auditor	$3,600 00
Deputy Auditor, at $2,250				1	Deputy Auditor	2,250 00
Chief of division, at $2,000				5	Five chiefs of division, at $2,000 each	10,000 00
Clerk, class four, at $1,800				9	Nine clerks of class four	16,200 00
Clerk, class three, at $1,600; Additional to one clerk, class three, as disbursing clerk, at $200				29	Twenty-nine clerks of class three; Additional to one clerk of class three, as disbursing clerk	46,400 00; 200 00
Clerk, class two, at $1,400				60	Sixty clerks of class two	84,000 00
Clerk, class one, at $1,200			1	35	Thirty-four clerks of class one	40,800 00
Clerk, $1,000 class				8	Eight clerks, at $1,000 each	8,000 00
Assistant messenger, at $720		1		2	Three assistant messengers, at $720 each	2,160 00
Laborer, at $660				8	Eight laborers, at $660 each	5,280 00
Total						218,890 00

OFFICE OF THE THIRD AUDITOR.

Auditor, at $3,600				1	Third Auditor	$3,600 00
Deputy Auditor, at $2,250				1	Deputy Auditor	2,250 00
Chief of division, at $2,000				5	Five chiefs of divisions, at $2,000 each	10,000 00
Clerk, class four, at $1,800				6	Six clerks of class four	10,800 00
Clerk, class three, at $1,600				16	Sixteen clerks of class three	25,600 00
Clerk, class two, $at 1,400			1	57	Fifty-six clerks of class two	78,400 00
Clerk, class one, at $1,200				43	Forty-three clerks of class one	51,600 00
Clerk, $1,000 class			1	7	Six clerks, at $1,000 each	6,000 00
Clerk, $900 class			1	9	Eight clerks, at $900 each	7,200 00
Assistant messenger, at $720				1	One assistant messenger	720 00
Laborer, at $660			1	7	Six laborers, at $660 each	3,960 00
Female laborer, at $480				1	One female laborer	480 00
Total						200,610 00

OFFICE OF THE FIFTH AUDITOR.

Auditor, at $3,600				1	Fifth Auditor	$3,600 00
Deputy Auditor, at $2,250				1	Deputy Auditor	2,250 00
Chief of division, at $2,000				2	Two chiefs of divisions, at $2,000 each	4,000 00
Clerk, class four, at $1,800		3		2	Five clerks of class four	9,000 00
Clerk, class three, at $1,600				5	Five clerks of class three	8,000 00
Clerk, class two, at $1,400				4	Four clerks of class two	5,600 00
Clerk, class one, at $1,200				6	Six clerks of class one	7,200 00
Clerk, $1,000 class				2	Two clerks, at $1,000 each	2,000 00
Clerk, $900 class		1		3	Four clerks, at $900 each	3,600 00
Messenger, at $840				1	One messenger	840 00
Assistant messenger, at $720		1			One assistant messenger	720 00
Laborer, at $660				1	One laborer	660 00
Total						47,470 00

OFFICE OF THE SIXTH AUDITOR.

Auditor, at $3,600				1	Sixth Auditor	$3,600 00
Deputy Auditor, at $2,250				1	Deputy Auditor	2,250 00
Chief clerk, at $2,000				1	Chief clerk	2,000 00
Chief of division, at $2,000				8	Eight chiefs of divisions, at $2,000 each	16,000 00
Clerk, class four, at $1,800				13	Thirteen clerks of class four	23,400 00
Additional to one clerk, class four, as disbursing clerk, $200					Additional to one clerk of class four as disbursing clerk	200 00
Clerk, class three, at $1,600				58	Fifty-eight clerks of class three	92,800 00

Revised estimates for 1883—Continued.

OFFICE OF THE SIXTH AUDITOR—Continued.

Class.	Paid from miscellaneous appropriations.	Add for details from other offices.	Deduct for details to other offices.	Number estimated for for 1883.	To be appropriated for.	Amount.
Clerk, class two, at $1,400				69	Sixty-nine clerks of class two	$96,600 00
Clerk, class one, at $1,200		1		50	Fifty-one clerks of class one	61,200 00
Clerk, $1,000 class				30	Thirty clerks, at $1,000 each	30,000 00
Female assorter of money-orders, at $900		1		18	Nineteen female assorters of money-orders, at $900 each	17,100 00
Skilled laborer, at $1,000			1	1	Omitted	
Assistant messenger, at $720				1	One assistant messenger	720 00
Laborer, at $660		1		19	Twenty laborers, at $660 each	13,200 00
Charwoman, at $180				10	Ten charwomen, at $180 each	1,800 00
Total						360,870 00

OFFICE OF THE TREASURER OF THE UNITED STATES.

Treasurer, at $6,000				1	Treasurer	$6,000 00
Assistant Treasurer, at $3,600				1	Assistant Treasurer	3,600 00
Cashier, at $3,600				1	Cashier	3,600 00
Assistant cashier, at $3,200				1	Assistant cashier	3,200 00
Chief clerk, at $2,500				1	Chief clerk	2,500 00
Chief of division, at $2,500				5	Five chiefs of divisions, at $2,500 each	12,500 00
Principal bookkeeper, at $2,500				1	One principal bookkeeper	2,500 00
Assistant bookkeeper, at $2,400				1	One assistant bookkeeper	2,400 00
Teller, at $2,500				2	Two tellers, at $2,500 each	5,000 00
Assistant teller, at $2,250				2	Two assistant tellers, at $2,250 each	4,500 00
Clerk, class four, at $1,800				26	Twenty-six clerks of class four	46,800 00
Clerk, class three, at $1,600				17	Seventeen clerks of class three	27,200 00
Clerk, class two, at $1,400				15	Fifteen clerks of class two	21,000 00
Clerk, class one, at $1,200				23	Twenty-three clerks of class one	27,600 00
Coin clerk, at $1,200	1				One coin clerk	1,500 00
Clerk, $1,000 class				5	Five clerks, at $1,000 each	5,000 00
Clerk, $900 class				80	Eighty clerks, at $900 each	72,000 00
Messenger, at $840				6	Six messengers, at $840 each	5,040 00
Assistant messenger, at $720				6	Six assistant messengers, at $720 each	4,320 00

Laborer, at $660				26	Twenty-six laborers, at $660 each	17,160 00
Laborer, at $240				7	Seven laborers, at $240 each	1,680 00
Total						275,100 00
Office of Treasurer of United States (National Currency, to be reimbursed by National Banks).					*Office of Treasurer of United States (National Currency, to be reimbursed by National Banks).*	
Superintendent, at $3,500				1	Superintendent	$3,500 00
Principal teller, at $2,500				1	One principal teller and one principal bookkeeper, at $2,500 each	5,000 00
Principal bookkeeper, at $2,500				1		
Assistant bookkeeper, $2,400				1	One assistant bookkeeper	2,400 00
Assistant teller, at $2,000				1	One assistant teller	2,000 00
Clerk, class four, at $1,800				2	Two clerks of class four	3,600 00
Clerk, class three, at $1,600				3	Three clerks of class three	4,800 00
Clerk, class two, at $1,400				4	Four clerks of class two	5,600 00
Clerk, class one, at $1,200				20	Twenty clerks of class one	24,000 00
Clerk, $1,000 class				10	Ten clerks, at $1,000 each	10,000 00
Clerk, $900 class				10	Ten clerks, at $900 each	9,000 00
Assistant messenger, at $720				4	Four assistant messengers, at $720 each	2,880 00
Total						72,780 00

OFFICE OF THE REGISTER OF THE TREASURY.

Register, at $4,000				1	Register	$4,000 00
Assistant Register, at $2,250				1	Assistant Register	2,250 00
Chief of division, at $2,000				5	Five chiefs of divisions, at $2,000 each	10,000 00
Class four, at $1,800; Additional to one clerk, class four, as disbursing clerk, at $200				18	Eighteen clerks of class four	32,400 00
					Additional to one clerk of class four, as disbursing agent	200 00
Clerk, class three, at $1,600		1		17	Eighteen clerks of class three	28,800 00
Clerk, class two, at $1,400				15	Fifteen clerks of class two	21,000 00
Clerk, class one, at $1,200			1	20	Nineteen clerks of class one	22,800 00
Clerk, $1,000 class				4	Four clerks, at $1,000 each	4,000 00
Clerk, $900 class		1	3	60	Fifty-eight copyists and counters, at $900 each	52,200 00
Messenger, at $840				1	One messenger	840 00
Assistant messenger, at $720				5	Five assistant messengers, at $720 each	3,600 00
Laborer, at $660		1		7	Eight laborers, at $660 each	5,280 00
Total						187,370 00

Revised estimates for 1883—Continued.

OFFICE OF COMMISSIONER OF INTERNAL REVENUE.

Class.	Paid from miscellaneous appropriations.	Add for details from other offices.	Deduct for details to other offices.	Number estimated for for 1883.	To be appropriated for.	Amount.
Commissioner, at $6,000				1	Commissioner of Internal Revenue	$6,000 00
Deputy Commissioner, at $3,200				1	Deputy Commissioner	3,200 00
Head of division, at $2,500				2	Two heads of divisions, at $2,500 each	5,000 00
Head of division, at $2,250				5	Five heads of divisions, at $2,250 each	11,250 00
Stenographer, at $1,800				1	Stenographer	1,800 00
Clerk, class four, at $1,800	1			23	Twenty-four clerks of class four	43,200 00
Clerk, class three, at $1,600			1	26	Twenty-five clerks of class three	40,000 00
Clerk, class two, at $1,400				36	Thirty-six clerks of class two	50,400 00
Clerk, class one, at $1,200	2			21	Twenty-three clerks of class one	27,600 00
Clerk, $1,000 class	1			13	Fourteen clerks, at $1,000 each	14,000 00
Clerk, $900 class	27		1	50	Seventy-six clerks, at $900 each	68,400 00
Assistant messenger, at $720	9			4	Sixteen assistant messengers, at $720 each, (three additional submitted.)	11,520 00
Laborer, at $660	3			10	Thirteen laborers, at $660 each	8,580 00
Superintendent of stamp agencies, at $2,100	1				One superintendent of stamp agencies	2,100 00
Superintendent of stamp vault, at $2,000	1				One superintendent of stamp vault	2,000 00
Stamp agent, at $1,600*	2				*Two stamp agents, at $1,600 each	3,200 00
Counter, at $900*	3				*Three counters, at $900 each	2,700 00
Total						390,950 00

OFFICE OF THE LIGHT-HOUSE BOARD.

Chief clerk, at $2,400				1	Chief clerk	$2,400 00
Clerk, class four, at $1,800				2	Two clerks of class four	3,600 00
Clerk, class three, at $1,600				2	Two clerks of class three	3,200 00
Clerk, class two, at $1,400	1			1	Two clerks of class two	2,800 00
Clerk, class one, at $1,200	1			3	Four clerks of class one	4,800 00
Clerk, $900 class	14			1	Fifteen clerks, at $900 each	13,500 00
Assistant messenger, at $720	2			1	Three assistant messengers, at $720 each	2,160 00
Laborer, at $660				1	One laborer	660 00
Laborer, at $600	1				One laborer	600 00

Assistant civil engineer, at $2,400	1				One assistant civil engineer	2,400 00
Draughtsman, at $1,800	1				One draughtsman	1,800 00
Draughtsman, at $1,680	1				One draughtsman	1,680 00
Draughtsman, at $1,320	1				Two draughtsmen, at $1,300 each	2,600 00
Draughtsman, at $1,200	1					
Total						42,200 00

BUREAU OF STATISTICS.

Officer in charge of bureau, at $3,000				1	Officer in charge of bureau	$3,000 00
Chief clerk, at $2,000				1	Chief clerk	2,000 00
Clerk, class four, at $1,000				4	Four clerks of class four	7,200 00
Clerk, class three, at $1,600				5	Five clerks of class three	8,000 00
Clerk, class two, at $1,400				5	Six clerks of class two (one additional submitted)	8,400 00
Clerk, class one, at $1,200	3			6	Nine clerks of class one	10,800 00
Clerk, $1,000 class				3	Three clerks, at $1,000 each	3,000 00
Clerk, $900 class				5	Six copyists, at $900 each (one additional submitted)	5,400 00
Assistant messenger, at $720			1	1	Omitted	
Laborer, at $660				1	One laborer	660 00
Female laborer, at $480				1	One female laborer	480 00
Messenger, at $840	1				One messenger	840 00
Experts, at $400	4				Collectinn statistics relating to internal commerce: For the payment of experts, and other necessary expenditures connected with the collection of information relative to the internal and foreign commerce of the United States	5,000 00
Experts, at $350	1					
Collecting statistics relating to internal commerce: For payment of services of experts, and for other necessary expenditures connected with the collection of facts relative to the internal and foreign commerce of the United States				*Amount* $8,800		
Total						54,780 00

OFFICE OF THE LIFE-SAVING SERVICE.

General Superintendent, at $4,000				1	General Superintendent	$4,000 00
Assistant General Superintendent, at $2,500				1	Assistant General Superintendent	2,500 00
Principal clerk, at $1,800				1	One principal clerk	1,800 00
Clerk, class three, at $1,600				2	Two clerks of class three	3,200 00
Clerk, class two, at $1,400				1	One clerk of class two	1,400 00
Clerk, class one, at $1,200				3	Three clerks of class one	3,600 00
Clerk, $1,000 class				2	Two clerks, at $1,000 each	2,000 00
Clerk, $900 class		1		4	Five clerks, at $900 each	4,500 00
Assistant messenger, at $720				1	One assistant messenger	720 00

* These employés are stationed at the stamp manufactories, and the appropriation is reimbursed by the manufacturers to the extent of the expenditure.

Revised estimate for 1883—Continued.

OFFICE OF THE LIFE-SAVING SERVICE—Continued.

Class.	Paid from miscellaneous appropriations.	Add for details from other offices.	Deduct for details to other offices.	Number estimated for for 1883.	To be appropriated for.	Amount.
Laborer, at $660				1	One laborer	$660 00
Topographer and hydrographer, at $1,800	1				One topographer and hydrographer	1,800 00
Civil engineer and draughtsman, at $1,600	1				One civil engineer and draughtsman	1,600 00
Draughtsman, at $1,500	1				One draughtsman	1,500 00
Assistant superintendent of construction, &c., at $1,200	2				Omitted	
Assistant superintendent of construction, &c., at $900	1				Omitted	
Total						29,280 00

OFFICE OF THE DIRECTOR OF THE MINT.

Director of the Mint, at $4,500				1	Director of the Mint	$4,500 00
Examiner, at $2,300				1	Examiner	2,300 00
Computer, at $2,200				1	Computer	2,200 00
Assayer, at $2,200				1	Assayer	2,200 00
Adjuster of accounts, at $2,000				1	Adjuster of accounts	2,000 00
Clerk, class three, at $1,600				1	One clerk of class three	1,600 00
Clerk, class two, at $1,400				1	One clerk of class two	1,400 00
Clerk, class one, at $1,200	1			2	Three clerks of class one	3,600 00
Translator, at $1,200				1	One translator	1,200 00
Copyist, at $900				1	One copyist	900 00
Messenger, at $840				1	Two messengers, at $840 each (one additional submitted)	1,680 00
Laborer, at $660				1	One laborer	660 00
Clerk, at $1,000	1				One clerk	1,000 00
Clerk, at $600	1				One clerk	600 00
Clerk, at $360	1				One clerk	360 00
Total						26,200 00

SECRET SERVICE DIVISION

Chief, at $3,500	1				Chief	$3,500 00
Chief clerk, at $2,000	1				Chief clerk	2,000 00
Finance clerk, at $1,800	1				Financial clerk	1,800 00
Record clerk, at $1,400	1				Record clerk	1,400 00
Custodian, at $1,400	1				Custodian	1,400 00
Clerk, class two, at $1,400	1				Clerk to disbursing agent	1,400 00
Index clerk, at $1,100	1				Index clerk	1,200 00
Operative, at $7 per diem	2				Three commissioned operatives, at $7 per diem each	7,665 00
Operative, at $6 per diem	4				Five commissioned operatives, at $6 per diem each	10,950 00
Operative, at $5 per diem	8				Ten commissioned operatives, at $5 per diem each	18,250 00
Operative, at $4 per diem	1				Fourteen assistant operatives, at $4 per diem each	20,440 00
Assistant operative, at $4 per diem	3				One hundred and twenty days' subsistence for each commissioned operative, not to exceed $4 per day.	8,640 00
Assistant operative, at $3 per diem	4				One hundred and twenty days' subsistence for each assistant operative, not to exceed $3 per day.	5,040 00
Assistant operative, at $2.50 per diem	1				Transportation	5,000 00
Assistant operative, at $2 per diem	2				Payments for information, rewards, telegraphing, stationery, and all other incidental expenses.	15,000 00
Boy, at $20 per month	2					
Suppressing counterfeiting and other crimes:						
Expenses of detecting and bringing to trial and punishment persons engaged in counterfeiting Treasury notes, bonds, national-bank notes, and other securities of the United States, as well as the coins of the United States, and other crimes committed against the laws of the United States				*Amount* $100,000		
Total						103,685 00

MARINE-HOSPITAL SERVICE.

For the compensation of one Supervising Surgeon-General (R. S., 4802. 18 Stats., p. 377), at four thousand dollars per annum; one surgeon, at three thousand dollars per annum; twelve surgeons at two thousand five hundred dollars each per annum; eleven passed assistant surgeons,* at one thousand eight hundred dollars each per annum; fourteen assistant surgeons, at one thousand six hundred dollars each per annum; forty-six acting assistant surgeons,† not to exceed eighteen thousand three hundred and ten dollars per annum, and no acting assistant surgeon shall receive more than one thousand dollars per annum; one hospital steward (employed as chemist), at nine hundred dollars per annum; two hospital stewards, at seven hundred and twenty dollars each per annum; seven hospital stewards, at six hundred dollars each per annum; one hospital steward, at five hundred dollars per annum; two hospital stewards, at four hundred and eighty dollars each per annum; four hospital stewards, at four hundred and twenty dollars each per annum; four engineers,‡ at two hundred dollars per month; two hospital attendants,§ at thirty-five dollars each per month; four hospital attendants, at thirty dollars each per month; twenty-three hospital attendants, at twenty-five dollars each per month; one hospital attendant at twenty-two dollars per month; fifty hospital attendants, at twenty dollars each per month; four hospital attendants, at eighteen dollars each per month; four hospital attendants, at sixteen dollars each per month; nineteen hospital attendants, at fifteen dollars each per month; one hospital attendant, at thirteen dollars per month; two hospital attendants, at twelve dollars each per month; one hospital attendant, at ten dollars per month; one hospital attendant, at eight dollars per month; one hospital attendant, at three dollars per month: *Provided*, That nothing in this act shall be so construed as to debar the Secretary of the Treasury from appointing one additional hospital steward and the necessary attendants for each hospital hereafter erected in pursuance of law, and the persons so appointed shall be included in the annual estimate next succeeding such appointment.

Marine-Hospital steamer John M. Woodworth: ‖ One master and pilot, at one thousand five hundred dollars per annum; one boatswain at thirty-five dollars per month; two firemen, at thirty-five dollars each per month; two able seamen, at twenty dollars each per month.

OFFICE OF SUPERVISING SURGEON-GENERAL, WASHINGTON, D. C.

One clerk, at one thousand eight hundred dollars per annum; five clerks, at one thousand six hundred dollars each per annum; one clerk at one thousand two hundred dollars per annum; six copyists, at nine hundred dollars each per annum; one messenger, at fifty dollars per month; one laborer, at forty dollars per month; one laborer, at thirty dollars per month; for transportation of officers and hospital stewards traveling under orders, three thousand dollars. (Section 4802, R. S.) For the employment of physicians not holding an appointment at ports where no medical officer nor acting assistant surgeon is stationed, not to exceed seven in number, two thousand nine hundred and eighty-two dollars for all persons so employed for the fiscal year ending June 30, 1883: *Provided*, That it shall be lawful to audit and pay physicians' bills in such amount as shall be approved by the Supervising Surgeon-General for the temporary care and treatment of emergency cases of sick or disabled seamen, landed or abandoned at ports where no specific arrangements exist; ¶ in all, one hundred and sixty-three thousand eight hundred and forty-four dollars, which shall be paid from the Marine-Hospital fund.

STEAMBOAT—INSPECTION SERVICE.

(Revised Statutes, section 4402, 4404, 4414, and 4461.)

For the compensation of one Supervising Inspector-General, at a salary of three thousand five hundred dollars per annum.

Ten supervising inspectors, at salaries of three thousand dollars per annum each.

Four local inspectors of hulls and boilers, at salaries of two thousand two hundred dollars per annum each.

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* After three years' service, regulations promote assistant surgeons to passed assistant surgeons. Seven will be eligible within the year.

† Salaries of acting assistant surgeons vary, according to extent of service, from $1,000 to $150 per annum.

‡ One engineer receives $60 per month, two receive $50, and one $40.

§ Hospital attendants include firemen, nurses, cooks, laundresses, house-cleaners, watchmen, drivers, gardeners, &c.

‖ Ferry, between New York Marine-Hospital (Bedloe's Island) and the Battery, New York. Engineer detailed from Revenue-Marine Service.

¶ See Treasury Department Circular, No. 69, June 22, 1881, Marine-Hospital Service.

Twenty-eight local inspectors of hulls and boilers, at salaries of two thousand dollars per annum each.

Six local inspectors of hulls and boilers, at salaries of one thousand five hundred dollars per annum each.

Twenty-two local inspectors of hulls and boilers, at salaries of one thousand two hundred dollars per annum each.

Two local inspectors, at salaries of nine hundred dollars per annum each.

Ten local inspectors of hulls and boilers, at salaries of eight hundred dollars per annum each.

Eight assistant inspectors of hulls and boilers. at New York, at salaries of two thousand dollars per annum each. (Two of these are new appointments now needed.)

Ten assistant inspectors of hulls and boilers, at salaries of one thousand six hundred dollars per annum each.

Two assistant inspectors of hulls and boilers, at salaries of one thousand two hundred dollars per annum each.

Six clerks to local boards of inspectors, at salaries of one thousand two hundred dollars each per annum.

Two clerks to local boards of local inspectors, at salaries of one thousand dollars each. One clerk, at nine hundred dollars per annum.

Office Supervising Inspector-General, Washington, D. C.

One clerk, not to exceed one thousand eight hundred dollars; one clerk, not to exceed one thousand six hundred dollars; two clerks, not to exceed one thousand two hundred dollars each; one messenger, not to exceed eight hundred and forty dollars per annum.

Office Supervising Inspector, Second District.

One clerk, at one thousand two hundred dollars per annum.

For traveling and other expenses, when on official duty, and all instruments, books, blanks, stationery, furniture, and other things necessary to carry into effect the steamboat laws, forty thousand dollars; in all, two hundred and thirty-five thousand eight hundred and forty dollars, to be paid from the revenues received from steamboat fees.

Note.—The Supervising Inspector-General recommends, in view of the several bills now before Congress, some of which have already passed either one or other branches of Congress, creating new local boards of inspectors, others increasing the salaries of those heretofore enumerated, that a contingent fund of eight thousand dollars additional be appropriated for salaries to meet the increase referred to.

Customs Service.

That all acts and parts of acts authorizing the payment from a permanent annual appropriation of the expenses of collecting the revenue from customs be, and are, repealed, such repeal to take effect after the thirtieth day of June, 1883; and all moneys now by law appropriated for the expense of collecting the revenue from customs shall —together with all unexpended balances remaining after the payment of all accounts accruing prior to July 1, 1883, after that day—be covered into the Treasury, to be drawn therefrom only in consequence of appropriations made by law.

And it shall be the duty of the Secretary of the Treasury to present to Congress, in his next annual estimates, and each year thereafter, detailed estimates of appropriations required for the customs service, giving the grade and salary of each employé, and the amount required for contingent expense at each port or separate office.

Coast and Geodetic Survey.

The existing organization of the Coast and Geodetic Survey does not readily admit of making specific appropriations for the pay for services of persons employed on the work as surveyors, astronomers, hydrographers, computers, draughtsmen, engravers, and various artisans. The force employed necessarily varies with the allotment for the year; moreover, by the regulations of the service, the compensation of any employé will vary according to the service performed, active work in the field carrying with it a higher compensation than office-work.

In order to submit an estimate of pay for services it would be necessary to know, in advance, the amount to be appropriated for surveying expenses, including wages hands, subsistence and transportation of parties, and general expenses

OFFICES AFFECTED BY THIS REVISION.

	Amount by revised estimate for 1883.	Amount by regular estimate for 1883.
Office of Secretary of Treasury	$509, 626 00	$403, 000 00
Office of Supervising Architect	19, 420 00	19, 420 00
Office of First Comptroller	82, 900 00	76, 500 00
Office of Commissioner of Customs	51, 630 00	49, 630 00
Office of First Auditor	82, 690 00	84, 310 00
Office of Second Auditor	218, 890 00	219, 370 00
Office of Third Auditor	200, 610 00	204, 570 00
Office of Fifth Auditor	47, 470 00	40, 450 00
Office of Sixth Auditor	360, 870 00	359, 110 00
Office of Treasurer U. S	275, 100 00	273, 600 00
Office of Treasurer U. S., (national currency, reimbursable)	72, 780 00	72, 780 00
Office of Register	187, 370 00	188, 110 00
Office of Commissioner of Internal Revenue	300, 950 00	253, 330 00
Office of Light-House Board	42, 200 00	16, 480 00
Bureau of Statistics	54, 780 00	52, 560 00
Office of Life-Saving Service	29, 280 00	23, 480 00
Office of Director of the Mint	26, 200 00	22, 200 00
Total	2, 562, 766 00	2, 358, 980 00
Regular estimates for 1883	2, 358, 980 00	
Increase	203, 786 00	
Compensation paid from miscellaneous appropriations	208, 254 25	
Net decrease by revised estimates	4, 468 25	
Office of Supervising Architect (paid from various appropriations for public buildings)	$150, 000 00	$123, 707 55
Secret-Service Division (paid from appropriation for "Suppressing counterfeiting and other crimes")	103, 685 00	100, 000 00
Marine-Hospital Service	163, 844 00	Indefinite.
Steamboat-inspection Service	235, 840 00	Indefinite.

APPROPRIATIONS AFFECTED BY THIS REVISION.

Title of appropriation.	Amount estimated for fiscal year 1883.	Amount paid from these appropriations for 1882.	Amount to be specifically appropriated per revised estimates for 1883.
Contingent expenses, Treasury Department:			
Binding, newspapers, &c	$10, 000 00	$7, 355 50	$7, 355 50
Horses and wagons	6, 000 00	3, 600 00	3, 340 00
Ice, &c	7, 500 00	6, 780 00	5, 880 00
Furniture, &c	30, 000 00	13, 083 50	13, 023 50
Miscellaneous items	19, 000 00	1, 080 00	1, 080 00
Life-Saving Service	696, 197 00	3, 400 00	3, 400 00
Establishing life-saving stations	20, 000 00	4, 800 00	1, 500 00
Light-house establishment (various appropriations)	.....	25, 546 00	25, 720 00
Distinctive paper for United States securities	57, 000 00	20, 736 25	22, 080 00
Redemption of worn and mutilated United States notes	50, 000 00	1, 200 00	1, 500 00
Fuel, lights, and water for public buildings	447, 059 74	11, 586 00	11, 400 00
Furniture and repairs of furniture for public buildings	310, 000 00	5, 382 00	3, 817 00
Examination of rebel archives and records of captured property	5, 000 00	4, 550 00	4, 550 00
Lands and other property of the United States	5, 000 00	4, 320 00	4, 320 00
Preparation of receipts, expenditures, and appropriations of the government	5, 000 00	6, 680 00	6, 680 00
Stamps, paper, and dies	500, 000 00	47, 960 00	50, 120 00
Collecting statistics relating to commerce	8, 800 00	6, 390 00	2, 940 00
Collecting mining statistics	5, 000 00	960 00	960 00
Collecting revenue from customs (indefinite)	.....	30, 645 00	30, 880 00
Coinage of the standard silver dollar (indefinite)	.....	2, 200 00	2, 200 00
Increase not properly chargeable to these appropriations	.....	.....	1, 040 00
		208, 254 25	203, 786 00
Decrease by revised estimates	.....	.....	4, 468 25
			208, 254 25